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Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Wing)
Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110 001

File No: 800-26/2016-AS.II

Dated: 06.11.2018

To

**All Unified Licensees (having Access Service Authorization)/ Unified Licensees (AS)/
Unified Access Services Licensees/ Cellular Mobile Telephone Service Licensees.**

Subject: Proof of Concept (PoC) of Alternate Digital KYC Process for issuing new mobile connections to subscribers-regarding.

This is in continuation of this office letter of even number dated 26.10.2018 vide which Licensees were directed to discontinue the Aadhaar based E-KYC process for issuing new mobile connections to subscribers and re-verification of existing mobile subscribers. Further, in para 7 of the instructions, all Telecom Service Providers were asked to ensure readiness of their systems and offer the Proof of Concept (PoC) of the proposed Alternate Digital KYC Process by 05.11.2018 for approval.

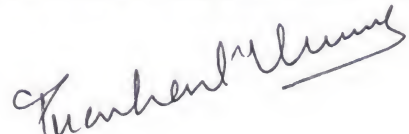
2. As per the proposed digital alternate KYC process by Telecom Industry for issuing new mobile connections, the Customer Acquisition Form (CAF) is to be embedded with live photograph of subscriber along with the original POI/POA document thereby digitizing the end to end process for on boarding of new mobile subscribers by making it completely paperless.

3. The procedure to be followed for issuing mobile connections using the alternate digital KYC process is as follows:

- a. The entire process shall only be used through the authenticated applications (App) hosted by the Licensees.
- b. The access of the App shall be controlled by the Licensees and it should be ensured that the same is not used by unauthorized persons.
- c. The customer desirous of obtaining a new mobile connection shall visit the authorized POS location of the Licensee or vice-versa. The original Proof of Identity/Proof of Address (PoI/PoA) documents shall be in possession of the customer.
- d. The Licensee must ensure that the Live photograph of the customer is taken at POS terminal and the same photograph shall be embedded in the CAF. Further, the system application of the Licensee shall put a water-mark having CAF number, GPS coordinates, POS name, unique POS Code (assigned by licensees) and Date & time stamp on the captured live photograph of the customer.
- e. Similarly, the live photograph of the original POI/POA documents shall be captured and water-marking as mentioned above shall be done.

Tanishk Kumar

- f. Thereafter, all the entries in the CAF shall be filled as per the POI/POA documents and information furnished by the customer. In those POI/POA documents where QR code is available, such details can be auto-populated by scanning the QR code instead of manual filling the details. For example, in case of physical Aadhaar/e-Aadhaar downloaded from UIDAI where QR code is available, the details like name, gender, date of birth and address can be auto-populated by scanning the QR available on Aadhaar/e-Aadhaar.
 - g. Once the above mentioned process is completed, an One Time Password (OTP) shall be sent to customer's own alternate mobile number. Upon successful validation of the OTP, it will be treated as customer signature on CAF. However, if the customer does not have any own alternate mobile number, then mobile number of his/her family members/relatives/known persons may be used for this purpose. Further, in case if the customer does not have any alternate mobile number to give for this purpose, then the mobile number of POS registered with the Licensee may be used.
 - h. The POS shall provide a declaration about the capturing of the live photograph of customer and the original POI/POA documents and/or its registered mobile number used for customer signature. For this purpose, the POS shall be verified with One Time Password (OTP) which will be sent to his mobile number registered with the Licensee. Upon successful OTP validation, it shall be treated as POS signature on the declaration.
 - i. Subsequent to all these activities, the application shall give information about the completion of the process and submission of activation request to activation officer of the Licensee, and also generate the transaction-id/reference-id number of the process. POS shall intimate the details regarding transaction-id/reference-id number to customer for future reference.
 - j. The authorized representative of the Licensee shall check and verify that:
 - (i) information available in the pictures of POI/POA documents is matching with the information entered by POS in CAF.
 - (ii) live photograph of the customer matches with the photo available in the POI/POA documents.
 - (iii) All of the necessary details in CAF including mandatory fields are filled properly.
 - k. On successful verification by authorized representative of the Licensee, the SIM card shall be activated and tele-verification as per the prevailing guidelines shall be done before final activation of the services. However, if the customer has given his own alternate mobile number, then tele-verification through the use of 5-digit OTP pin shall be done for activation of final services.
4. Only two mobile connections shall be provided per day per POI/POA document to a customer by a Licensee using the above mentioned alternate digital KYC process. However, in case more than one connection is issued, the entire process as mentioned above shall be repeated for issuing each connection.
5. The above mentioned digital KYC process is an alternative process to the existing process of issuance of mobile connections to subscribers and shall also be applicable for outstation and foreign customers. The additional safeguards in prevailing guidelines in respect of

A handwritten signature in black ink, appearing to read 'Anand Kumar', is written over the page number.

outstation and foreign customers shall also be followed in the above mentioned digital KYC process.

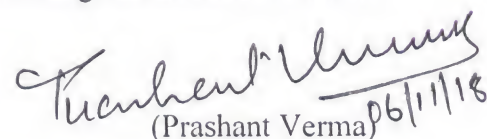
6. The proof of concept of the above mentioned alternate digital KYC process is to be done at two locations (rural & urban) by each Licensee. As on date, following Licensees have ensured their readiness to conduct POC and offered location of POC as mentioned below:

Name of Licensee	Location 1 (urban)	Location 2 (rural)
Bharti Airtel Limited	Delhi	Meerut
BSNL	Hyderabad, Telangana	Vikarabad, Telangana
MTNL	Mumbai	Delhi (as no rural location available for MTNL)
Reliance Jio Infocomm Limited	RCP, Ghansoli, Navi Mumbai	Ganesh Nagar, Chichpada, Aeroli, Navi Mumbai
Tata Teleservices Limited	Karnal, Haryana	Assandh (Karnal District), Haryana
Vodafone Idea Limited	Delhi	Baramati, Pune District

7. Based on the POC results, further directions for any change in the process, if any, will be issued on the subject.

8. The existing instructions in general and particularly those issued vide letter No. 800-09/2010-VAS dated 09th August 2012 and all other instructions shall remain the same for issuing of mobile connections to new subscribers.

9. With regard to non-acceptability of Aadhaar/e-Aadhaar as POI/POA documents in J&K, Assam and North East LSAs, it is clarified that at present there is no change in instructions dated 14.01.2011.


(Prashant Verma) 06/11/18

Assistant Director General (AS-II)
Tele No.: 011-23354042

Copy to:

1. DGT, DoT HQ, New Delhi- with a request for issuing necessary directions/instructions to concerned LSA field units to depute representatives for validation of the POC and submit the results of POC to this office directly.
2. JS (CIS), MHA, New Delhi- with a request to depute a representative for validation of POC.
3. All Heads of LSA field units.
4. Secretary, TRAI, New Delhi.
5. Director(AS-I)/Director(AS-III)/Director(AS-IV)/Director(AS-V), DoT HQ, New Delhi.
6. COAI, New Delhi.

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Revised
BPA

Government of India
Ministry of Communications
Department of Telecommunications
Access Services Cell
Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110 001

File No: 800-26/2016-AS.II

Dated: .11.2018

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Vodafone Idea Limited	Delhi	Baramati, Pune District
Bharti Airtel Limited	Delhi	Meerut
BSNL	Hyderabad, Telangana	Vikarabad, Telangana
MTNL	Mumbai	Delhi (as no rural location available for MTNL)
Tata Teleservices Limited	Karnal, Haryana	Assandh (Karnal District), Haryana

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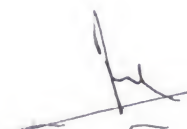
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(Prashant Verma)
Assistant Director General (AS-II)
Tele. No.: 011-23354042

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3. All Heads of LSA field units.
4. Secretary, TRAI, New Delhi.
5. COAI, New Delhi.



Subject: **Re: Compliance to order dated 26.10.2018**
To: adetas2.hq-dot@nic.in
Cc: Sanjay Kumar <sanjaykumar777@gmail.com>,
S A Melmalgi <melmalgi@gmail.com>

Date: 11/06/18 12:58 PM
From: Kartikeya Sinha <ksinhabsnl@gmail.com>

Dear Sir,

In addition to the trailing email, following locations are offered for PoC of Digital KYC process of BSNL, :

1. Location 1: Hyderabad, Telangana State (Urban)
2. Location 2: Vikarabad, Telangana State (Rural)

Kind Regards,
Kartikeya Sinha
General Manager (Sales-CM)
BSNL CO, New Delhi
Ph.: 011-23766138
Mob.: 9868126655

On Fri, Nov 2, 2018 at 11:57 AM Kartikeya Sinha <ksinhabsnl@gmail.com> wrote:

Dear Sir,

Please find attached BSNL's response to DoT order dated 26.10.2018.

--

Kind Regards,
Kartikeya Sinha
General Manager (Sales-CM)
BSNL CO, New Delhi
Ph.: 011-23766138
Mob.: 9868126655

--

Subject: **PoC**To: "diras2-dot@nic.in" <diras2-dot@nic.in>,
"adetas2.hq-dot@nic.in" <adetas2.hq-dot@nic.in>

Date: 11/06/18 01:28 PM

From: Sunil Batra <Sunil.Batra@tatatel.co.in>

Sir as desired, we (Tata Teleservices) will do it at:

Karnal for urban

Assandh for rural (District Karnal)

With regards

Sunil Batra

Get Outlook for Android

Instructions for Proof of Concept of
Alternate Digital Process for issuing
new connections to subscribers

Procedure to be adopted by all
Licensees

- Use of authenticated applications (App) hosted by the Licensees only.
- The access of the App be controlled by the Licensees and be ensured that the same is not used by unauthorized persons.
- The original Proof of Identity/Proof of Address (PoI/PoA) documents should be in possession of the customer during the process.

Capturing of Live Photographs of Customer and Pol/PoA documents

- The Live photograph of the customer is taken at POS terminal and the same photograph be embedded in the CAF.
- Put a water-mark having CAF number, GPS coordinates, POS name, unique POS Code (assigned by licensees) and Date & time stamp on the captured live photograph of the customer.
- Similarly, the live photograph of the original POI/POA documents is captured along with water-mark as above.

PoS Declaration & Signature

- Thereafter, all the entries in the CAF be filled as per the POI/POA documents and information furnished by the customer.
- In those POI/POA documents where QR code is available, such details can be auto-populated by scanning the QR code instead of manual filling the details.
- For example, in case of physical Aadhaar/e-Aadhaar downloaded from UIDAI where QR code is available, the details like name, gender, date of birth and address can be auto-populated by scanning the QR available on Aadhaar/e-Aadhaar.
- POS to declare about the capturing of the live photograph of customer and the original POI/POA documents. For this purpose, One Time Password (OTP) may be sent to his mobile number registered in the Licensee database. Upon successful OTP validation, POS declaration is treated as Valid.

Customer Signature

- For this, an OTP shall be sent to customer's own alternate mobile number. Upon successful validation of the OTP, it will be treated as customer signature on CAF.
- If the customer doesn't have any own alternate mobile number, then mobile number of his/her family members/relatives/friends/known persons may be used for this purpose.
- The App to give information about the completion of the process and submission of activation request to activation officer of the Licensee, and also generate the transaction-id/reference-id number of the transaction and may be intimated to customer for future reference.

Role and Declaration of Activation officer of Licensee

- The activation officer of the Licensee shall to check and verify that
 - ✓ information available in the pictures of POI/POA documents is matching with the information entered by POS in CAF,
 - ✓ live photograph of the customer matches with the photo available in the POI/POA documents
 - ✓ All of the necessary details in CAF including mandatory fields are filled properly.

Tele-verification and Activation of final services

- On successful verification by activation officer of the Licensee, the SIM card may be activated and tele-verification as per the prevailing guidelines be done before final activation of the services.
- IVRS based tele-verification can be done as per instructions dated 29.08.2016.
- However, if the customer has given his own alternate mobile number, then tele-verification through the use of 5-digit OTP pin shall be done for activation of final services.

Additional Safeguards

- Only one mobile connection be provided per day to a customer by a Licensee using the alternate digital process.
- It is an alternative process to the existing process and also be applicable for outstation and foreign customers.
- The additional safeguards in prevailing guidelines (instructions dated 09.08.2012) in respect of outstation and foreign customers may also be followed in this alternate digital process.

PoC offered by licensees

- The proof of concept of the above mentioned alternate digital process is to be done at two locations by each Licensee. As on date, following Licensees have ensured their readiness to conduct POC and offered location of POC as mentioned below:

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Vodafone Idea Limited	Delhi	Baramati
Bharti Airtel Limited	Delhi	Meerut
BSNL	Not given	Not given

Thanks

Subject: Meeting Notice- Proof of Concept (PoC) for Alternate Digital Process for issuing new mobile connections to subscribers- reg

To: ABHISHEK GUPTA IDEA <abhishek.gupta@vodafoneidea.com>,
AMIT KUSHWAHA AIRTEL <Amit.kushwaha@airtel.com>,
AMIT MATHUR RELIANCE <a.mathur@relianceada.com>,
BN SINGH TATA COMM. LTD <BN.Singh@tatatel.co.in>,
CMD BSNL <cmdbsnl@bsnl.co.in>, CMD MTNL <cmd@bol.net.in>,
Dhananjay Gawande <Dhananjay.Gawande@airtel.com>,
K Singh BSNL <ksinhabsnl@gmail.com>,
MAHIPAL SINGH RELIANCE JIO <Mahipal.Singh@ril.com>,
NISHANT MEHRA RELIANCE JIO <nishant.mehra@ril.com>,
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RAHUL VATTS IDEA <rahul.vatts@vodafoneidea.com>,
RAVI GANDHI AIRTEL <ravi.gandhi@airtel.com>,
SNAJEEV ARORA VODAFONE <Sanjeev.Arora@vodafoneidea.com>
SUNIL BATRA TATA COMM. LTD <sunil.batra@tatatel.co.in>,
SUNIL SAREEN AIRTEL <sunil.sareen@airtel.com>,
SUNIL TANDON TATA COMM. LTD <sunil.tandon@tatatel.co.in>,
Vikram Tiwathia <vtiwathia@coai.in>

Cc: Sheo Bhadra Singh <sb.singh66@gov.in>,
Director AS-II <diras2-dot@nic.in>

Date: 11/05/18 05:10 PM

From: "PRASHANT VERMA ADG" <adetas2.hq-dot@nic.in>

Dear Sir/Madam,

This is to convey that a Meeting is hereby scheduled under the Chairmanship of Secretary (Telecom) at **11:30 AM** on **06.11.2018** in **Committee Room, 2nd Floor, Sanchar Bhawan, New Delhi** to discuss the PoC of proposed Alternate Digital Process for issuing new mobile connections to subscribers.

All Licensees are requested to kindly make it convenient to attend the same.

--


Thanks and Regards--

Prashant Verma

Assistant Director General (AS-II)
Department of Telecommunications
Ministry of Communications
Sanchar Bhawan, New Delhi.
011-23354042, +91-9013136582

Copy to :-

1. Sr. PPS to Secretary (T)
2. Sr. PPS to Member (T)
3. PS to DDG (AS)


15/11/18

11/11/18
DPA

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7. The details about the POC of other Licensees will be communicated separately as and when it is received in this office.

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(Prashant Verma)
ADG (AS-II)

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JMC

Government of India
Ministry of Communications & IT
Department of Telecommunications
(AS Cell)

Sanchar Bhawan, 20 Ashoka Road, New Delhi - 110 001.

File No: 800-09/20010-VAS

Dated: 09th August' 2012

All CMTS/ UAS Licensee(s)

Subject: Instructions on Verification of New Mobile Subscribers (Pre-paid & Postpaid).

As per the directions contained in the judgment and order dated 27.04.2012 rendered by the Hon'ble Supreme Court of India in WP(C) No. 285/2010, a joint expert committee was constituted in the DoT. After taking into consideration the recommendations made by the Committee, the instructions have been finalized and the same are being issued through this letter.

This has reference to the CMTS/UAS License condition which inter alia provides that "The LICENSEE shall ensure adequate verification of each and every customer before enrolling him as a subscriber; instructions issued by the licensor in this regard from time to time shall be scrupulously followed."

2. It has been decided that instructions in respect of verification of subscribers mentioned herein shall be strictly followed by the Service Providers. These instructions shall be in supersession of the following instructions issued on the subject and shall be effective three months from date of issue unless otherwise mentioned in the letter:

- (i) No. 1-34/2009-SI dated 08.02.2010
- (ii) No. 842-725/2005/157 dated 23.03.2009
- (iii) No. 800-4/2003-VAS (Vol.II)/104 dated 22.11.2006
- (iv) No. 800-4/2003-VAS/112 dated 10.05.2005
- (v) No. 842-488/2004-VAS/2 dated 30.11.2004
- (vi) No. 800-4/2002-VAS/101 dated 26.04.2004

3. **Activation of new mobile connection:**

- (i) A passport size photograph of the subscriber should be pasted on the Customer Acquisition Form (CAF) and the documents as proof of identity (PoI) and proof of address (PoA) of the subscriber shall be attached with the CAF, as per the instructions applicable from time to time. The person at the Point of Sale (PoS) shall get the CAF duly filled and signed (CAF, Photo & documents attached) by the subscriber with date. In case of illiterate person, the CAF may be filled by a person at the point of sale but the thumb impression of the subscriber may be

taken on CAF, Photo & documents attached. A unique number should be assigned to every CAF on receipt of the same in the warehouse and in case before activation of SIM.

- (ii) The subscriber shall be provided a counterfoil/receipt of the details of the PoI & PoA clearly mentioning the name of subscriber, Mobile number applied for, CAF Number, type of PoI/PoA, issuing authority, date of issue and serial number of PoI/PoA document duly signed with stamp of PoS.
- (iii) The authorized person at the PoS shall record in the CAF that he has seen the subscriber and matched the photograph attached on the CAF with the subscriber and verified his copies of documents of proof of address and proof of identity attached with the CAF with the original and shall put his signature on the CAF & all attached documents (along with full name & stamp containing address). For this purpose sufficient space should be provided in the CAF.
- (iv) The mobile connections shall be activated only after the requirement of filling up of customer acquisition form and copies of documentary proof as per requirement have been fulfilled by the customer and the subscriber details have been updated in the subscriber database of the Licensee; for this purpose, the licensee (the employee of Licensee) shall verify and record on the CAF under his name, designation and Signature that all the documentary requirement has been completed and subscriber details are updated in the database of Licensee. Only after this activity has been done the SIM card can be activated. For this purpose sufficient space should be provided in the CAF.
- (v) The date of sale of SIM and date of Activation of SIM is required to be established from the entries in the CAF. For this purpose, entry of Date is to be made with the Signature of Subscriber (at the time of filling CAF), Signature of PoS (at the time of verifying the subscriber and documents) and Signature of Licensee (at the time of verification before activation) in the CAF.
- (vi) After the activation of SIM, the subscriber shall be at least tele-verified. It may be ensured that while making the calls for tele-verification, details may be asked from the subscriber and verified against the details provided in the database. It may also be ensured that unless tele-verified, the subscriber is not able to make any type of call, except to the operator. The incoming call will remain barred before tele-verification.

- (vii) Pre-activated SIM Card is not to be sold. In case of sale of pre-activated SIM cards a penalty of Rs. 50,000/- per such connection shall be levied in addition to immediate disconnection of mobile connection, as and when detected. Pre-activated connection means that the SIM card available at point of sale or in possession of any other person is in such a condition that it is possible to make/ receive calls/SMS without activation as per procedure mentioned in para (iv) above. Further, in case it is established that the date of activation of SIM Card is prior to actual sale of SIM card, then it shall be treated as a sale of pre-active connection. Also, if for the CAF Audit/investigation, the CAF is not supplied to TERM Cell within given time frame (missing CAF cases in CAF Audit), the connection shall be treated as pre-activated.
- (viii) The Licensee shall ensure that the information about the subscribers are correctly filled in the subscriber database. There shall not be any typing mistake in the subscriber database such that the error leads to any person or address other than the intended person or address or else it shall be treated as failed subscriber verification case for the purpose of CAF Audit and specified penalty as per existing instructions shall be levied. The Licensee shall ensure immediate correction of entry in the database once such error is detected. However, typing error in case of translating the name or address from any regional language or Hindi to English shall be considered to the extent it leads to the same person or premise.
- (ix) In case of change of existing mobile connection from pre-paid to postpaid and vice versa also, the above instructions from 3(i) to 3(viii) shall apply.
- (x) The sample copy of a typical CAF to be used showing the mandatory fields in * (asterisk) in enclosed as **Annexure-I**.

4. Additional Guidelines for issue of Mobile Connection to Foreigner/ Short time mobile connection

- (i) In case of foreign tourists visiting India, the copy of Passport with valid Visa stamp shall be treated as proof of identity. For proof of address, the address of local reference which may also be the tour operator shall be taken. In case, there is no local reference, the address of stay (hotel etc) shall be taken.
- (ii) Any mobile connection issued to a Foreigner should not have validity beyond the validity of the Visa. In case of foreign tourist the validity of connection should not be beyond the Visa period and also not exceeding 3 months at a time even if the validity of the Visa is beyond 3 months.

- (iii) The connection issued to the personnel deployed on ships while at sea shore, shall have validity only till the date they have the permit to stay at the port.
- (iv) List of such connections shall be provided every month to DoT /TERM Cell separately while submitting monthly database to DoT/TERM Cell.

5. Outstation Customers

- (i) Applications for mobile phone connections from within the licensed service area or the state/UT concerned, whichever is more encompassing shall not be treated as outstation customers. For local reference of outstation customer, the name, address and contact phone number of local referee shall be obtained from the outstation customer, apart from the PIA.
- (ii) The local reference shall be verified telephonically at the point of sale before issue of SIM card and entry made in the CAF along with the name of local reference contacted. This will also be cross verified at the time of activation of the connection and the name of local reference with whom the tele-verification has been done shall be recorded in the CAF by the person activating the connection before activating the mobile connection as per para 3(iv) above. This shall be in addition to the tele-verification of the subscriber after activation as per 3(vi) above.

6. Bulk Mobile Connection:

- (i) Bulk mobile connection means 10 or more than 10 mobile connections issued in a single name to individuals or a company or an organization or at any given address by all the Licensed service providers in the service area.
- (ii) Bulk connections shall not be provided in case of individuals.
- (iii) In case of mobile connections to a company/organisation, a single CAF duly signed by Authorized Signatory of the company/organisation shall be supplied while applying for mobile connections in bulk. At least one CAF in each Service Area shall be required to be filled by the Company/Organization in case it wants to take Bulk connection across many Service Areas.
- (iv) The Photo and identity proof of the authorized signatory shall be furnished. The authorization letter for Authorized signatory should be issued by Company Secretary/ Proprietor/ Any of the partner as the case may be.

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- (v) For the purpose of address proof certificate of incorporation/ registration as a company/firm may be taken.
- (vi) In case of Govt. of India undertaking, Govt. of India Offices/ State Govt. offices, the aforesaid requirement of identity and address proof are dispensed and self certification on the letter head will suffice alongwith the name and designation of the coordinating officer.
- (vii) In case of Foreign Missions in India, the name and designation of the authorized officer along with the details of officials for whom the cellular mobile phone is intended.
- (viii) The number of mobile connections used by the Bulk User from other Licensees in that Service Area shall be declared by the Bulk User at the time of filling the CAF. In addition to declaration of all of his connections by the customers, the licensee should also verify from its records the details of existing connections working in the name of the same subscriber before activation of new SIM.
- (ix) The Licensee shall maintain the list of actual users of such mobile connections. In case there is change in the actual user, the same shall be informed by the bulk user Authorized Signatory to the Licensee within a week of such change. The Licensee shall update its database immediately but not later than one week of receiving such information. Record of such changes in actual users shall be kept by the Licensee. The list of users with name and designation duly signed with stamp of authorized signatory (on each page of list) shall be maintained by the Licensee. The authorized signatory shall at the end of three months summarise the change of name taken place during the month. In case there is no change, a certificate mentioning no change shall be given to Licensee.
- (x) For Bulk mobile connections, physical verification of subscriber shall be mandatory before activation of the connection. Here the subscriber means the person who has made the application for the bulk connections. Additionally, Bulk user premises should be inspected by the service provider at least once in six months for satisfying themselves about bonafide use of such facilities as per License condition.
- (xi) The existing Bulk Connections shall be made compliant to above instructions within three months of issue of these instructions or else disconnected. A certificate of compliance shall be submitted to the TERM cell at the end of first two months for the connections made compliant. At the end of third month a

Handwritten signature

certificate of numbers made compliant and the numbers disconnected shall be submitted to the TERM Cell.

- (xii) During sample CAF audit if any CAF of bulk case is rejected in PIA (photo, identity proof, address proof) that particular case shall be treated as failed case for that sample CAF audit and penalty as applicable shall be levied. Other connections which are part of such bulk connection will also be investigated by TERM Cell.

7. Change in the name of subscriber

- (i) The change of name of subscriber is not permitted as the SIM card in user terminal is not transferable. The change in name between the blood relatives/legal heirs is permitted provided new CAF and all the procedure as for registering a new subscriber is followed and new SIM Card is issued. However, after the change in name the connection shall be treated as new connection. In such case, change in address is not permitted. Further, No Objection Certificate from the original user shall also be taken. In case of death of the original user, death certificate will suffice instead of No Objection Certificate.

8. Change of Address:

- (i) All the mobile subscribers either individual or bulk should intimate to their service provider, any change of address within one week of such change alongwith new proof of address. If during re-verification process by the Licensee or Licensor or Security Agencies, it is found that subscriber address is not correct in the database, then the connection may be disconnected forthwith and the subscriber shall be solely responsible of any consequent hardship. The subscriber shall be suitably advised by the Licensee in this regard while booking for new connection. The database of Licensee must be updated at all points of time.

9. Timely Disconnection:

- (i) Whenever a CAF/connection is found non-compliant for a working mobile connection, either during regular CAF Audit or any other investigation by DoT/Security agencies, either proper CAF should be produced within 72 Hours or else the connection be disconnected.

- (ii) In case it is detected that a mobile connection is working in the name of Foreigner/ person with limited stay permit, beyond the validity of Visa/stay permit, the connection should be disconnected immediately.
- (iii) In all cases of failure to take timely corrective action mentioned above or disconnection, penalty of Rs. 50,000 shall be levied on each such connection in addition to the applicable penalty on non-compliance during subscriber verification audit.
- (iv) The report of disconnected numbers alongwith the date of disconnection shall be provided to the respective TERM Cell within 7 days of disconnection. In case, the Licensee fails to intimate about the disconnection to TERM Cell within 7 days of disconnection, a penalty of Rs. 3000/- per connection per week or part thereof shall be levied from the date of intimation for disconnection to Licensee upto the date of confirmation in addition to any other prescribed penalty levied.
- (v) A number disconnected in compliance of instructions on subscriber verification may be activated at a later date provided it is activated as per procedure for new mobile connection.
- (vi) A number disconnected in compliance of instructions of DoT/TERM Cell, at any stage if it is detected that the number was not actually disconnected on or before the date of confirmation/disconnection as indicated above, then a penalty @ Rs. 1000 per day from the date of intimation to the Licensee to the date of actual disconnection shall be levied in addition to the penalty for non-disconnection.

10. Lodging Complaint / FIR:

- (i) TERM Cell shall indicate the apparently forged cases as per their observation in the CAF Audit giving reasons for prima facie observation to the Licensee and marking them as a failed case for CAF Audit. The Licensee shall investigate such cases at their level and take necessary action as detailed below.
- (ii) In order to deal with the use of forged documents for obtaining mobile connections, complaint/FIR may be lodged with the law enforcement agencies under the law of land. The complaint should clearly mention the information about the mobile number, type of document forged along with the details about the issuing authority, date of issue, reason for suspicion as forged

document, name of the person suspected (e.g. name of subscriber/ PoS/Franchisee/Licensee)

- (iii) In cases where forged documents are submitted by the subscriber and originals are also forged, police complaint/ FIR shall be lodged by the PoS/Franchisee against the subscriber within fifteen days of bringing it to the notice of the Licensee.
- (iv) In case PoS/Franchisee fails to lodge complaint/FIR as above, Licensee shall lodge FIR/ Complaint against the subscriber and Franchisee/POS within further three days.
- (v) In case where it is found that the forgery has been done by point of sale, the Licensee shall lodge the complaint / FIR against the Franchisee/ point of sale within one week and financial penalty shall be imposed.
- (vi) In case no action is taken by the Licensee as above or the Licensee itself is involved in forgery, TERM Cell shall lodge Complaint/ FIR against Licensee. Penalty shall be imposed on all such forged cases also.
- (vii) In cases where it is found that the act of issuing connections were done by point of sale using the document of some other subscriber or any person without the knowledge of the subscriber or the person, or the documents were forged by the franchisee/PoS of Licensee, the concerned PoS/franchisee may be terminated by the Licensee under intimation to the Licensor (concerned TERM cell of DoT) and the designated security agencies, in addition to the actions mentioned above. The same may be intimated to all other Licensee(s) in that Service Area by TERM Cell. The other Licensees after getting any such intimation shall terminate/ not appoint any such point of sale.
- (viii) No penalty shall be imposed on the Licensee, if the laid down process of activation/verification applicable at the time of activation has been followed and the forgery is done by the subscriber. In case where activation/verification process is not followed by the Licensee, the penalty shall be imposed even if the documents are found to be forged.

11. Providing of subscriber database, BTS Location, CDR and CAF:

- (i) The subscriber database submitted to the Licensor and Designated security agencies should contain all the fields mentioned in the **Annexure-II**.

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- (ii) In case, CAF of any subscriber is asked by the TERM Cells/ designated Security Agencies, the original/scan copy of CAF & documents shall be furnished within 1 hour. Subscriber data will be provided in 1 hr. BTS Location shall also be provided within 1 hour but not later than 6 Hours. CDRs upto 6 months old shall be provided within 12 hours and CDR more than 6 months old shall be provided within 24 hours.
12. Provision of deactivation by SMS / Call Center /e-mail/ website etc. after confirmation should be in the system if any subscriber wants to get deactivated his mobile number.
13. In case of Test SIMs required by the Licensee for any purpose, the list of such connections/numbers shall be intimated to DoT/Security agencies along with the duration of such requirement.
14. The terms and condition which affect the conditions of subscriber verification and also those which lead to disconnection of the connection shall be clearly mentioned on the CAF.
15. The above instructions have been prescribed for ensuring that the connection is issued to bonafide subscriber. However, the responsibility for adequate verification of subscriber in accordance with Licence condition lies with the Licensee. The Licensee may adopt additional safeguards to ensure adequate verification of subscriber without, however, modifying the instructions / procedures outlined in this letter in any manner.
16. The special instructions / safeguards issued from time to time regarding mobile services in J&K, Assam and North East Service Areas shall continue to remain valid.

J. K. Tirkey 9.8.2012
(A.K. Tirkey)
Asstt. Director General (AS-II)

Copy to:

1. DDG (Security-TERM), DoT
2. All DDsG TERM
3. DDG (LF-I)/ DDG (A/C) DOT
4. All CCAs
5. Director (AS-III)/ Director (AS-IV) DOT
6. COAI/ AUSPI

APPLICATION FORM FOR NEW MOBILE CONNECTION

DRAFT

Affix self signed
passport size
photograph

Unique Customer Application Form (CAF) No* -

Type of Connection* Pre-paid ☐ Post-paid ☐
(tick appropriate box)

1. Name of the Subscriber*
(As given in Proof of Identity document attached with application):
2. Name of Father/ Husband*
3. Gender* :- Male ☐ Female ☐
(tick appropriate box)
4. Date of Birth*(DD/MM/YYYY)-

--	--	--	--	--	--	--	--	--	--
5. Complete Local residential Address* (As given in Proof of Address document attached with application):
House No/Flat No* _____ Street Address/Village* _____
Locality/ Tehsil* _____
City/ District* _____ State/UT* _____
Pin Code* -

--	--	--	--	--	--	--	--
6. Complete permanent residential Address of subscriber :
House No/Flat No _____ Street Address/Village _____
Locality/ Tehsil _____
City/ District _____ State/UT _____
Pin Code -

--	--	--	--	--	--	--	--
7. Status of Subscriber* :- Individual ☐ Bulk ☐ Corporate ☐ Foreigner ☐ Outstation ☐
(tick appropriate box)
8. Nationality* _____
9. Photo ID Proof type* (Driving Licence/ Voter ID Card/ Passport/ PAN Card/ Other (specify):
Document No.* _____ Date of Issue* _____
Place of Issue* _____ Issuing Authority* _____
10. Address proof document type* (Driving Licence/ Voter ID Card/ Passport/ Other (specify):
Document No.* _____ Date of Issue* _____
Place of Issue* _____ Issuing Authority* _____
11. Number of Mobile connections held in name of Applicant (Operator-wise)* - _____
12. Tariff Plan Applied* - _____
13. Value Added Services Applied(if any) _____
14. E-mail address (if any): _____ @ _____
15. Alternate Contact numbers, if any: Home: _____ Business _____ Mobile _____
16. Profession of Subscriber : _____
17. PAN/GIR/UID Number : _____
18. Details (Name, Address and phone number) of Local reference* (If Applicable): _____
19. To be filled in cases of Mobile Number Portability (MNP) –
(A) UPC _____ (B). Previous Service Provider Details : _____
20. To be filled in cases of Post-paid connections -
(A) Form of Payment - Cash ☐ Cheque ☐ credit card ☐ Debit card ☐
(B) If payment made by cash/cheque/credit card/debit card
(a) Bank A/c No. _____ (b) Bank Name _____
(c) Branch Name & Address _____

Signature of Customer*
Date* -

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Fields to be filled by Service Provider/Authorized representative

21. IMSI No.* - _____ 22. Mobile Number allotted* - _____
23. Point of sale code* - _____ 24. Point of sale agent name* - _____
25. Complete Address of Point of Sale* :
House No/Flat No _____ Street Address/Village _____
Locality/ Tehsil _____
City/ District _____ State/UT _____
Pin Code -

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26. Name of local reference contacted by PoS at time of Sale (in case of outstation subscriber)*

Signature, name and stamp of PoS along with the declaration as per para 3(iii) of instructions*(the name of local reference with whom the tele-verification of outstation customer is done is to be entered by PoS)
Date* -

Fields to be filled by Service Provider before SIM Activation

27. Name of local reference contacted at time of activation (The name of local reference with whom the tele-verification of outstation customer is done is to be entered by him)*(In case of outstation subscriber).

28. Name & designation of the Employee of the Licensee activating the SIM on behalf of the licensee*

29. Details of Add-on/Value Added facilities (like Internet, 3G, Call transfer facility, ISD facility, GPRS, navigation, Tariff plan etc.) activated on the SIM Card - _____

Signature of Employee of Licensee who is activating the SIM*
Date * -

*Mandatory fields

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Annexure-II

Parameters required to be included in the subscriber database furnished by Telecom Service Providers

Sl. No.	Parameter	Width
1.	Telephone Number	10 characters
2.	CAF serial No.	10 characters
3.	Name of the Subscriber	100 characters
4.	Date of Birth	10 characters
5.	Father's/Husband's Name	100 characters
6.	Local Address of the Subscriber	
	(i) House No./ Flat No.	20 characters
	(ii) Street Address/Name	50 characters
	(iii) Locality	50 characters
	(iv) City	50 characters
	(v) State/UT	50 characters
	(vi) Postal Code	06 characters
7.	Permanent Address of the Subscriber:	
	(i) House No./ Flat No.	20 characters
	(ii) Street Address/Name	50 characters
	(iii) Locality	50 characters
	(iv) City	50 characters
	(v) State/UT	50 characters
	(vi) Postal Code	06 characters
8.	Alternate phone No.	
9.	E-mail ID (if any)	100 characters
10.	Gender	06 characters
11.	Nationality	15 characters
12.	Profession of the Subscriber	15 characters
13.	PAN/GIR No	
14.	UID No (if available)	
15.	Photo ID Proof type(Driving Licence /Voter ID Card/Passport/Pan Card/Other (specify):	20 characters
	(i) Document No.	10 characters
	(ii) Date of issue	10 characters
	(iii) Place of issue	25 characters
	(iv) Issuing Authority	20 characters
16.	Address proof document type (Driving Licence/Voter ID Card/Passport/Others (specify):	25 characters
	(i) Document No.	10 characters
	(ii) Date of issue	10 characters
	(iii) Place of issue	25 characters
	(iv) Issuing Authority	20 characters
17.	Status of Subscriber (Individual Bulk/Corporate/Foreigner/outstation)	10 characters
18.	Connection Type (Pre-paid/Post-paid)	10 characters
	(i) if Post paid: form of payment (cash/cheque/credit card/debit card)	10 characters

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	If payment made by cash/cheque/credit card/debit card:	
	(a) Bank A/c No.	20 characters
	(b) Bank Name	25 characters
	(c) Branch Name & Address	50 characters
19	IMSI No.	20 characters
20	Service Provider (initial)	20 characters
21	Circle (initial)	20 characters
22	SIM Activation date	10 characters
23	Current Status of Connection (Activated/Suspended)	10 characters
24	Previous Service Provider (in case of ported from other service provider)	20 characters
25	Previous Circle (in case of ported number from other circle)	20 characters
26	Point of sale code	10 characters
27	point of sale name	50 characters
28	Point of sale address:	
	(i) House No./ Flat No.	10 characters
	(ii) Street Address/Name	50 characters
	(iii) Locality	50 characters
	(iv) City	50 characters
	(v) State/UT	50 characters
	(vi) Postal Code	06 characters
29	Details of Add-on/Value Added facilities (like Internet, 3G, Call transfer facility, ISD facility, GPRS, navigation, tariff plan etc.) activated on the SIM Card	50 characters
30	Scanned photograph (coloured) of the Subscriber	
31	Name & designation of officer activating the SIM on behalf of Licensee	50 characters

Information: Page
Address of Communications to
the Department of Communications
Class, School or Wing
Office: 10 Ashoka Road, New Delhi

1. The Department of Communications, Access Services, New Delhi
2. New Delhi and Luck, New Delhi

3. The Department of Communications, New Delhi
4. The Department of Communications, New Delhi

5. The Department of Communications, New Delhi
6. The Department of Communications, New Delhi
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23. The Department of Communications, New Delhi
24. The Department of Communications, New Delhi

RJIL/DoT/2018-19/542

October 31, 2018

To

Sh. S.B.Singh,
DDG (Access Services),
Department of Telecommunications,
Ministry of Communications,
Room No. 1008, 10th Floor, Sanchar Bhawan,
Ashoka Road, New Delhi 110 001

Subject: Offering of 'Proof of Concept (POC)' for Digital process for verification of new mobile subscribers

Reference: DoT Instruction No. 800-26/2016-AS.II dated 26th October 2018.

Dear Sir,

1. This is with reference to aforementioned DoT Instructions dated 26th October 2018 (Said Instructions), to ensure system readiness and offer POC of the alternated digital process based on Customer Application Form (CAF) embedded with live photograph of subscriber and scanned images of Proof of Identity (POI)/ Proof of Address (POA), for verification of the mobile subscribers for issuing new mobile connections by 5th November 2018.
2. In compliance with the Instructions, Reliance Jio Infocomm Limited (RJIL), hereby intimates readiness of its systems to roll-out the alternate digital process of subscriber verification as envisaged under the Said Instructions. The step-wise proposed process to be followed at the POC is enclosed as **Annexure-A**.
3. This is to further inform your good office that RJIL is ready to offer the POC of this alternate digital process to the officials nominated by your good office on 2nd November 2018. We propose to offer the POC at two locations, i.e. one urban and one rural location, in Mumbai. The schedule and location details for conducting POC is enclosed as **Annexure-B**.
4. We request your good office to instruct the designated DoT officials to attend the POC and also inform any other concerned Government Departments to attend the POC. We



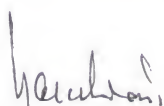
request you to also intimate the name and details of the officials attending the POC to us, so that requisite logistical arrangements are made at the POC locations.

5. In view of the above, we request you to accept this POC schedule and confirm us the participation by DoT officials on urgent basis. We submit that in interest of customer convenience, RJIL wishes to roll-out this new process as soon as possible and seek your co-operation to do the same within prescribed timelines.

Thanking You,

Yours Sincerely,

For Reliance Jio Infocomm Limited,



Kapoor Singh Guliani

Authorised Signatory

E-mail: kapoor.guliani@ril.com

Mobile: 9717539955



Enclosure: As above

Annexure A – Digital KYC Process Steps

The following table describes the steps in the proposed digital KYC process with 2 scenarios i.e. when customer visits POS with Aadhaar card and customer visits POS with any other valid POI/POA documents (other than Aadhaar)

Sr.	Scenario 1: Proposed Digital KYC Process steps (With Aadhaar)	Scenario 2: Proposed Digital KYC Process steps (Without Aadhaar)
1.	CUSTOMER WALKS INTO RETAILER LOCATION WITH AADHAAR CARD / e-AADHAAR	CUSTOMER WALKS INTO RETAILER LOCATION WITH VALID POI / POA
2.	POS agent login in Jio POS application with agent details	POS agent login in Jio POS application with agent details
3.	POS Agent selects “Digital KYC (Aadhaar)” and activation type (Mobility)	POS Agent selects “Digital KYC (Non Aadhaar)” and activation type (Mobility)
4.	Takes Photo of physical Aadhaar card or e-Aadhaar letter using Jio POS Application.	Takes Photo of POI & POA using Jio POS Application
5.	Takes live photo of customer using Jio POS Application and captures corresponding Geo tag and time stamp	Takes live photo of customer using Jio POS Application and captures corresponding Geo tag and time stamp
6.	Jio POS Application reads data from the QR code	POS Agent manually enters required fields in Jio POS Application
7.	Displays customer details as received from QR code i.e. Customer Name, DOB, Gender, Address, Father Name (If received). In cases where only Year Of Birth is received from QR Code, POS Agent selects date and month from drop down basis customer input	Following Fields are entered 1. Customer Name 2. Father Name 3. DOB 4. Gender 5. Address 6. POI details 7. POA details
8.	Captures customer alternate number [mandatory] and email ID [Optional]	Captures customer alternate number [mandatory] and email ID [Optional]
9.	POS Agent selects other mandatory details a. Service type (Prepaid & Postpaid) b. Plan c. POS agent scans SIM Jacket to capture ICCID d. System allocates MSISDN & IMSI (Auto populated) e. In case of MNP capture UPC code and other details. f. Select other operator connection details.	POS Agent selects other mandatory details a. Service type (Prepaid & Postpaid) b. Plan c. POS agent scans SIM Jacket to capture ICCID d. System allocates MSISDN & IMSI (Auto populated) e. In case of MNP capture UPC code and other details. f. Select other operator connection details
10.	Ticks declarations of customer consent and enters last 5 digit of ICCID & takes customer	Ticks declarations of customer consent and enters last 5 digit of ICCID & takes customer



Sr.	Scenario 1: Proposed Digital KYC Process steps (With Aadhaar)	Scenario 2: Proposed Digital KYC Process steps (Without Aadhaar)
	authentication via Jio Generated OTP on given Alternate Number (Geo tagging details to be captured)	authentication via Jio Generated OTP on given Alternate Number (Geo tagging details to be captured)
11.	POS agent authenticates via POS mobile number OTP (Geo tagging details to be captured)	POS agent authenticates via POS mobile number OTP (Geo tagging details to be captured)
12.	Generates e-CAF Number and creates provisional CAF	Generates e-CAF Number and creates provisional CAF
13.	Payment is collected	Payment is collected
14.	Order submission notification is sent to customer with ORN, MSISDN and 5 Digit PIN for tele verification	Order submission notification is sent to customer with ORN, MSISDN and 5 Digit PIN for tele verification
15.	Order routed to central activation officer, who post validation of entries including photograph approves / rejects the order	Order routed to central activation officer, who post validation of entries including photograph approves / rejects the order
16.	On approval, Generate eCAF and send Tele verification SMS notification to customer for completing tele verification with same 5 digit PIN details	On approval, Generate eCAF and send Tele verification SMS notification to customer for completing tele verification with same 5 digit PIN details
17.	Customer calls to IVR for tele verification and opts for either one of the following <ul style="list-style-type: none"> a. 5 Digit PIN b. Last 4 Digit aadhaar c. Regeneration of 5 Digit PIN at IVR d. Validation through call center agent 	Customer calls to IVR for tele verification and opts for either one of the following <ul style="list-style-type: none"> a. 5 Digit PIN b. Last 4 Digit of POA c. Regeneration of 5 Digit PIN at IVR d. Validation through call center agent
18.	Post validation - SERVICE IS ACTIVATED	Post validation - SERVICE IS ACTIVATED



Annexure B – POC Schedule details

Name of Licensee		Reliance Jio Infocomm Limited				
Brief Description of Service		Offering of 'Proof of Concept (POC)' for Digital process for verification of new mobile subscribers				
Date of demonstration		2 nd November 2018				
National Nodal Officer		Name	Mahipal Singh			
		Mobile No	9717899166			
		E-mail	mahipal.singh@ril.com			
S. N	POS Category	Proposed Demo Time	Venue	Name of contact person	Mobile Number	Email ID
1	Urban	11:30 Hrs	Reliance Corporate IT Park(RCP), TC-23 1 st Floor, Ghansoli, Navi Mumbai-400 701	Bhaumin Shah	9722199303	Shah.bhaumin@ril.com
2	Rural	14:30 Hrs	Dharma electronics, Ganesh Nagar Chichpada Thane Belapur Road Navi Mumbai Airoli	Bhaumin Shah	9722199303	Shah.bhaumin@ril.com



Bharti Airtel Ltd.

India & South Asia

Airtel Center, Plot No. 16,

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Gurgaon - 122 015

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Call +91 124 4222222

Fax +91 124 4248063

DDG (AS)

16/37/22 Nov 18

116/c



SC/ARTL/DOT/2018/02

October 24, 2018

Sh. S B Singh

Senior Deputy Director General – Access Services

Department of Telecommunications

Sanchar Bhawan,

20, Ashoka Road,

New Delhi – 110 001.

Subject: Alternate Digital Subscriber Verification process for Customer Acquisition

Dear Sir,

With reference to the above mentioned subject and the meeting held on 15th October, 2018, at Sanchar Bhawan, wherein an alternative digital process for customer acquisition was shared by the Industry.

During the discussion in the meeting, the department had asked for submission of the locations where individual TSPs are interested to conduct the Proof of Concept (PoC). In this regard, we wish to humbly submit that we intend to conduct the PoC at Delhi (urban location) and Merrut (Rural location).

It is sincerely requested to kindly issue instructions for allowing to initiate the PoC at the earliest.

Kind regards,

For Bharti Airtel Limited

Sameer Chugh

General Counsel and Director – Legal & Regulatory

Dir(AS-II)

ADL(AS-II)

24/10/18



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October 23, 2018

Secretary (Telecom)
Department of Telecommunications,
Ministry of Communications and IT,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi- 110001

Member (T.)

24-10-2018

Kind Attention : Ms. Aruna Sundararajan (I.A.S)

DDG (AS)

Dir (AS-II)
ADL (AS-II)

Subject : Subscriber Inconvenience & Security issues on withdrawal of Aadhaar based verification & urgent need for alternate Digital process for subscriber verification. 24/10/18

Ref : Meeting at DoT HQ vide letter no. 800-26/2016-AS.II, dated 17.10.2018

Dear Madam,

This is with reference to our meeting dated 17.10.2018 with DoT HQ alongwith the members of industry on issues relating to Aadhaar and Aadhaar eKYC process / Aadhaar Judgment passed by the Hon'ble Supreme Court.

At the outset, we thank you for the meeting to discuss/ highlight various issues, inter alia, customer inconvenience and likely security issues, if the Industry were to return to Paper KYC process.

Based upon our discussion, we set out herein below the following facts/ understanding:

1. That while the Constitutional validity of Aadhaar Act has been upheld by the Hon'ble Supreme Court, the Section 57 of the Act, which allowed Corporates and individuals to seek Aadhaar Authentication, has been stuck down.
2. Consequently, we had immediately stopped the Aadhaar based e-KYC re-verification and related communication to our subscribers in compliance of the said Judgment.
3. However, the insistence of UIDAI on exit plan as desired in its letter dated 01.10.2018 would lead to grave ramifications and inconvenience for the subscribers as in absence of Aadhaar Authentication, the only process to on-board the mobile subscribers would be the paper process laid down in the DoT guidelines dated 09.08.2012, which has multiple challenges relating to poor subscriber experience, authenticity issues of Pol & PoA documents and even National security.
4. In fact, it was in view of various challenges in the paper based process, that the DoT had taken the decision to create an alternate paper to a digital approach and adopted Aadhaar Authentication as the primary source for on-boarding mobile subscribers.

Vodafone Idea Limited (formerly Idea Cellular Limited)
An Aditya Birla Group & Vodafone partnership

Vodafone Idea Limited, 1st floor, Business Centre, Imperial Hotel, Janpath Lane, Janpath, Connaught Place, New Delhi, Delhi 110001

Registered Office: Suman Tower, Plot no. 18, Sector 11, Gandhinagar - 382 011, Gujarat. T: +91 79 6671 4000 | F: +91 79 2323 2251 | CIN: L32100GJ1996PLC030976

5. In the present circumstances, re-visiting the paper process would lead to issues on :

a) Subscriber Experience & Inconvenience

- i. Delay in activation due to manual process of activation – The paper process requires several hours for activation of a SIM Card in urban areas and days in rural areas depending on the topography of the location. The subscriber have to wait for the activation of the SIM card as per procedure laid down in DoT Guidelines dated 09.08.2012 which inter alia involves transit of CAF/ documents from PoS to Distributor to Activation Officer of the Company for validation of documents/ data entry, tele-verification by subscriber etc.
- ii. Subscriber cannot be contacted in case wrong/incomplete details are provided during activation
- iii. Subscriber necessarily has to get a passport size photograph clicked & documents photocopied. This may have to be done more than once where subscriber requires multiple connections or photograph/ photocopies of documents are lost.
- iv. Subscriber may not be able to fill CAF with complete details leading to delay as well as non-activation of SIM card and DoT compliance issues
- v. Delay or Loss of CAF & documents in transit to backend or Spoke location

b) High risk security issues

- i. Pol & PoA documents are prone to be misused while getting photocopy of original documents or at the PoS location for issuance of more than one SIM on an individual's name
- ii. Quality of photograph and photocopy of documents provided by the subscriber also remains a problem leading to traceability concern for TSPs, Security Agencies, TERM Cells/ DoT, etc.
- iii. Forged Pol/ PoA are likely to get used and cannot be identified. Hence in such a cases, the user of the SIM also remains untraceable
- iv. SIM card may get activated with wrong credentials or on wrong name and may lead to misuse of SIM card
- v. Traceability of PoS is always an issue
- vi. Quality of subscriber and PoS database entry is poor. Often the required fields are neither correct nor available as required for compliance

6. We would also like to highlight the fact that the idea of digitalising the subscriber journey for on-boarding through Aadhaar Authentication was conceptualised in the year 2014-15 (both by DoT HQ

& TSPs) to ensure that the subscriber experience is completely paperless facilitated by a smart, secured and transparent process, which would also meet the objective of Digital India. In this regard:

- a. A series of meeting were held between the officials of DoT, MHA and TSPs to decide and formalize the Aadhaar based authentication system for issuance of new SIMs, which is completely paperless, more secured and faster.
- b. DoT, MHA & TSPs then decided to test the proposed Aadhaar based authentication process on field with actual users and hence a Proof of Concept (PoC) was scheduled for TSPs through DoT notification dated 26.12.2014
- c. PoC was a complete success wherein users experiencing the process shared their feedback in support of such a process for owning new SIMs
- d. DoT then on 16.08.2016, in consultation with MHA issued instructions for issuing SIMs to new mobile subscribers using Aadhaar based eKYC authentication
- e. Since then TSPs have issued & verified millions of mobile subscribers, including 573 million (including churned subscribers) for Vodafone Idea, wherein subscribers have voluntarily and happily opted for an online digital SIM on-boarding process

7. In view of the above, the Aadhaar based authentication system has assured following advantages for subscribers over the paper on-boarding process :

- a. The Aadhaar based authentication system can be used to issue SIMs instantly to subscribers with high degree of safety anywhere, anytime i.e. 24x7. For e.g. : at Airports, Railway & Bus Stations, for door to door issuing of SIMs at rural & sub-urban locations, hospitals, etc.
- b. Aadhaar based authentication system requires minimum set up time for completion of the authentication/ on-boarding process at any given point of time, i.e. just a smartphone & a fingerprint scanner/ IRIS device are required to be connected with each other to start the process. Therefore, the operational cost is very low.
- c. Aadhaar based authentication system is the most preferred choice for subscribers since no photograph or paper document is required to be carried at PoS location. Therefore choosing Aadhaar eKYC over paper process saves non-essential expenses for subscribers
- d. Aadhaar based authentication system allows subscribers to just walk-in at TSPs PoS location with only Aadhaar number to get a working SIM in his/ her name instantly
- e. Aadhaar based authentication system is highly secured as the subscriber is verified on real time basis and his/ her authenticity is established instantly
- f. Aadhaar based authentication done by the subscriber for issuing SIM card cannot be re-used or misused by anyone, in any form
- g. Aadhaar based authentication system allows the subscriber to check the number of SIM cards issued using his/ her Aadhaar Authentication at any given point of time

- h. As both subscriber and PoS are authenticated online through Aadhaar, they always remain traceable for the Govt. Agencies & LEAs
8. Therefore, as highlighted above, any immediate withdrawal of Aadhaar e-KYC for on-boarding of new SIMs would inter alia cause grave inconvenience to subscribers besides the paper based process being prone to great security risks and challenges.
9. At present 99% of new SIMs are sold through the electronic KYC mode across all TSPs. Sudden transition will impact large population to acquire & use telecom services, besides impacting day to day provisioning of essential subscriber services.
10. In the last 2 years, for rolling out Aadhaar Authentication for its subscribers, Vodafone Idea Limited also contributed to Digital India initiative by investing heavily in developing IT systems, technology, on procurement & deployment of biometric devices, training of PoS on the adopted process as well for its own employees, subscriber education, etc.
11. That to safe guard subscriber's interest and in view of national security, Vodafone Idea Limited together with the industry & members of DoT is trying to digitise the existing paper process for on-boarding of new mobile subscribers. A detailed plan on the same has already been shared with DoT HQ vide industry letter dated 05.10.2018, including a demonstration of the new proposed digital on-boarding process by Vodafone Idea Limited at your office on 17.10.2018.
12. We further confirm that we are ready to demonstrate the alternate Digital process in "Proof of Concept" format at Delhi & Baramati (urban & rural locations respectively),

In view of the above stated concerns revolving around subscribers and in absence of any immediate alternate viable & secure digital process to authenticate and on-board subscribers, we request DoT HQ to:

- a. Provide an urgent approval to alternate Digital process.
- b. Provide us atleast 3 months, post approval of alternate Digital process for exit from current method of Aadhaar based verification.

We sincerely hope that in view of subscriber inconvenience and security related issues, the DoT would kindly consider our above requests at the earliest.

Thanking You,

for Vodafone Idea Limited



P Balaji
Chief Regulatory & Corporate Affairs Officer

Encl: A/a

Cc : 1) Member (T), Department of Telecommunications, Ashoka Road, New Delhi – 110 001

2) DDG – AS, Department of Telecommunications, Ashoka Road, New Delhi – 110 001

Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Wing)

12th Floor, Sanchar Bhawan, 20 Ashoka Road, New Delhi – 110 001
File No: 800-26/2016-AS.II

Dated: 26.10.2018

To

All Unified Licensees (having Access Service Authorization)/ Unified Access Services Licensees/ Cellular Mobile Telephone Service Licensees.

Subject: Discontinuation of Use of 'Aadhaar' e-KYC service of Unique Identification Authority of India (UIDAI) for issuing new mobile connections and re-verification of existing subscribers- regarding.

Ref1: Letter no. 800-29/2010-VAS dated 16.08.2016.

Ref2: Letter no. 800-26/2016-AS.II dated 23.03.2017.

This is with reference to instructions issued vide above mentioned letters and subsequent letters regarding use of Aadhaar based E-KYC process for issuing new mobile connection to subscribers and re-verification of existing mobile subscribers.

2. In respect of the issues related to Department of Telecom, Hon'ble Supreme Court, vide its final judgment and order dated 26.09.2018 in W.P. (C) 494/2012 {Justice KS Puttaswamy (Retd) & Anr. V/s UoI & Ors.} and connected matters, has set aside the circular dated 23.03.2017 issued by Department of Telecom regarding re-verification of existing mobile subscribers through Aadhaar based E-KYC process. In compliance to the judgment of Hon'ble Supreme Court, the undersigned is directed to convey the approval of competent authority that all Licensees shall discontinue the use of 'Aadhaar' e-KYC service of UIDAI for re-verification of existing subscribers with immediate effect. Accordingly, the instructions issued vide letter no. 800-26/2016-AS.II dated 23.03.2017 & subsequent follow-up orders related to re-verification of existing subscribers through Aadhaar based E-KYC process stand withdrawn.

3. Further, the Hon'ble Supreme Court has also made observations in its judgment regarding the usage of Aadhaar/authentication performed using E-KYC

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service of UIDAI and also set aside some of the clauses/struck down some of the portion of clauses of Aadhaar Act and Aadhaar Regulations, 2016.

4. UIDAI, in its letter dated 01.10.2018, has directed all Telecom Service Providers, that *"..all TSPs are called upon to immediately take actions in order to comply with the judgment dated 26.9.2018. In this regard, TSPs are hereby directed to submit by 15th October, 2018, an action plan/exit plan to the authority for closure of use of Aadhaar based authentication systems which shall include without limitation, the aspects enumerated under Regulation 23(2) of the Aadhaar (Authentication) Regulations, 2016. If the Authority does not receive any communication to this effect within the stipulated timeline, the authentication services shall be terminated without any further notice."*

5. According to the said judgment, the use of Aadhaar authentication is not permissible for E-KYC for verification of telecom subscribers nor for issuing new mobile connections. In compliance to the judgement of Hon'ble Supreme Court, all Licensees are to discontinue the use of "Aadhaar" e-KYC service of Unique Identity Authority of India (UIDAI) both for verification as well as for issuing new mobile connections. All TSPs shall ensure its implementation across the country in a time bound manner and compliance in this regard be submitted by 5th November, 2018.

6. The Telecom Industry, vide its joint representation dated 05.10.2018, has suggested an alternate digital process for KYC of mobile subscribers which envisages CAF to be embedded with live photograph of subscriber and scanned images of PoI/PoA thereby digitizing the end to end process for on boarding of new mobile subscribers by making it completely paperless.

7. Accordingly, all telecom service providers are directed to ensure readiness of their systems and offer the Proof of Concept of the proposed digital process by 05.11.2018 for approval. Consequently, instructions issued including vide letter No. 800-29/2010-VAS dated 16.08.2016 & subsequent follow-up orders related to Aadhar based e-KYC process shall stand withdrawn. Meanwhile, this process can be implemented provisionally by all TSPs. Any modification which may be required in this process by the government shall be carried out within a period of 30 days.

8. All Licensees may use the Proof of Identity/Proof of Address (PoI/PoA) based process issued by the Department vide instructions dated 09.08.2012 or 24.08.2015 for issuance of new mobile connections to subscribers.

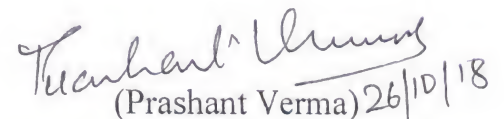


9. The Licensees may accept the copy of physical Aadhaar or e-Aadhaar letter having masked or unmasked Aadhaar number (as downloaded from UIDAI website) as PoI/PoA document, if offered voluntarily by the subscriber, as per the procedure(s) prescribed for issuance of new mobile connections as mentioned in para 8 above. The instructions issued vide letter no. 800-29/2010-VAS dated 11.07.2016 regarding permitting use of e-Aadhaar as PoI/PoA subject to the online verification from UIDAI, also stands withdrawn.

10. In addition to this, the Licensee shall also delete the column of writing Aadhaar number (which was optional entry) on Customer Acquisition Forms (CAFs) for issuing the new mobile connections. Accordingly, the instructions issued vide letter no. 800-09/2010-VAS dated 16.10.2014 and 29.12.2014 in this regard stand withdrawn.

11. With regard to other necessary compliance to the judgment of Hon'ble Supreme Court on Aadhaar, if any, on the part of Department of Telecom, separate instructions shall be issued after consultation with Ministry of Electronics & Information Technology and UIDAI.

12. A compliance report regarding discontinuation of use of Aadhaar based E-KYC process shall be furnished by each Licensee on e-mail id: diras2-dot@nic.in & adetas2.hq-dot@nic.in.


(Prashant Verma) 26/10/18

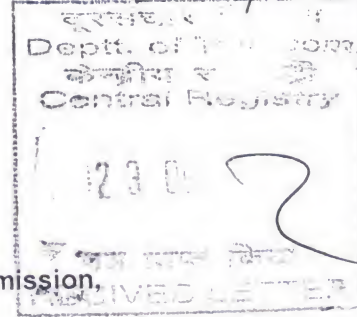
Assistant Director General (AS-II)

Copy to:

1. Secretary, MeitY, New Delhi.
2. CEO, UIDAI, New Delhi.
3. Chairman, TRAI, New Delhi.
4. DG (T), DoT HQ, New Delhi.
5. Advisor(s)/Sr. DDG(s) of LSA Field Units of DoT.
6. JS (CIS), MHA, North Block, New Delhi.
7. Director (AS-I)/Director (AS-III)/Director (AS-IV)/Director (AS-V), DoT.
8. COAI.



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23/10/18



October 23, 2018

Smt. Aruna Sundararajan,
Secretary (Telecom) and Chairperson, Telecom Commission,
Department of Telecom,
Sanchar Bhawan, 20 Ashoka Road,
New Delhi 110 001

Subject: Representation regarding continuation of the Aadhaar based e-KYC

- Reference:
- (i) Aadhaar Judgment dated 26.09.2018 passed by the Hon'ble Supreme Court of India in W.P.(civil) 494/2012.
 - (ii) Letter dated F. NO. K-11022/741/2018-UIDAI (Auth-II) dated 01 October, 2018.
 - (iii) DoT circular to TSPs on use of Aadhaar eKYC service of UIDAI, dated 16 August 2016.
 - (iv) DoT circular to TSPs on re-verification of existing SIMs, dated 23 Mar 2017
 - (v) DoT instructions on Verification of New Mobile Subscribers, dated 09 August 2012.
 - (vi) Tata Teleservices Ltd Letter dated 15th October 2018 to UIDAI

Respected Madam,

We thank you for holding the meeting on Thursday, October 18, 2018 in connection with the Aadhaar based eKYC process and the impact of the Supreme Court Judgment on the eKYC process.

We wish to submit as follows:

1. Basis the understanding of the Aadhaar Judgment passed by the Hon'ble Supreme Court of India ("Judgment") followed by the letter dated October 1, 2018 from the UIDAI, we understand that Telecommunication Service Providers (TSPs) cannot use Aadhaar based eKYC for issuance of new SIM card. Further, the circular dated 23.03.2017 issued by the Department of Telecommunications ("DoT") has been declared unconstitutional and therefore, we cannot continue to use the Aadhaar based eKYC for the purpose of re-verification of existing SIM cards.
2. At the outset, we submit that the re-verification of the customers using the Aadhaar services has been completely stopped. However, prior to the judgment, we have re-verified approximately 3.8 million subscribers on the basis of the Aadhaar services.

TATA TELESERVICES LIMITED

2-A, Old Ishwar Nagar, Main Mathura Road, New Delhi - 110065
Tel.: +91-11-66558666, 66558555 Fax : +91-11-66558908, 66558909 website : www.tatateleservices.com
Registered Office : 10th Floor, Tower 1, Jeevan Bharti, 124 Connaught Circus, New Delhi - 110001
CIN - U74899DL1995PLC066685 E-mail : listen@tatadocomo.com



3. As you are aware, we implemented the Aadhaar based KYC process on the basis of the circulars and directions of the Department of Telecom ("DoT"). The DoT circular, *use of Aadhaar eKYC service of UIDAI, dated 16.08.2016*, provided the process of using the e-KYC services of the UIDAI for acquisition of new subscribers wanting to avail of telecom services. The said process allowed the subscribers to be verified based on biometric authentication using the limited demographic data obtained from the UIDAI, which was name, address, date of birth, photograph and gender. The said process was followed and basis the same, we have issued approximately 15.8 million new SIMs to subscribers.
4. The above said Aadhaar eKYC based process enhanced the following:
 - a. Convenience to the Customer;
 - b. Addressed the security concerns of the MHA;
 - c. Allowed faster activation and thereby resulted in telecom services to reach to the far flung corners of the Country.

Customer Convenience

5. The Aadhaar based process was extremely efficient and convenient for the customers whereby they could authenticate themselves within minutes and avail of a new SIM card. Considering that the authentication was biometric based and allowed for real time turn around, the SIM card was also activated immediately post the authentication.
6. The customers details (to the extent provided) were provided by the UIDAI through registered devices and confirmed immediately resulting in instant activation as opposed to the earlier process in which the time taken averaged between 8 to 24 hours.

Security concerns of the MHA

7. We also submit that the said Aadhaar e-KYC process is more secure, safe and efficient method for the verification of the subscribers resulting in reduction of pre activated SIM cards and helped allay the security concerns of the Ministry of Home Affairs.
8. With the Aadhaar eKYC process, the number of pre activated SIM cards have become next to negligible and tracing the owner of the mobile number extremely easy and fast. That also acts as a deterrent for the fraudsters from obtaining SIM cards with the intent of doing frauds. We have further implemented additional security measures such as restricting the number of connections being issued to subscribers in a day and that has been possible due to the Aadhaar based eKYC process.

Sub



Digital vs. Paper based process

9. As you are aware, India is in the middle of a massive digital transformation and is looking to connect the unconnected. The only way to reach the population located in the rural and far flung corners can be through the digital route and any paper based process will not help achieve the said goal. In our humble submission, moving back to a paper-based process should not be an option due to the afore mentioned reasons including customer convenience, national security issues and the setback it will cause to the digital program of the Government of India.
10. In view of withdrawal of Aadhaar, a large population of India may face difficulties while availing telecom services.
11. In light of the above, we therefore request the DoT to provide a digital process based on the Aadhaar eKYC which allows us to acquire customers.

Thanking you.

Yours Sincerely,
for Tata Teleservices Limited

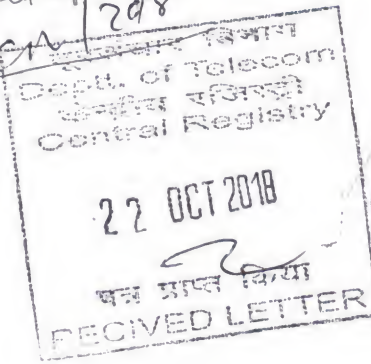
A handwritten signature in black ink, appearing to read 'Sunil Kumar Batra'.

Sunil Kumar Batra
Vice President - Corporate Regulatory Affairs
Email. ID Sunil.Batra@tatatel.co.in
Mobile No. 9212100456

Bharti Airtel Ltd.
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23/10/18
M(T)



SC/ARTL/DoT/2018/01
October 22, 2018

Smt. Aruna Sundarajan
Secretary, DOT and Chairperson, Telecom Commission
Department of Telecom,
Sanchar Bhawan,
New Delhi 110 001

Subject: Representation regarding continuation of the Aadhaar based e-KYC

Ref: (i) Aadhaar Judgment dated 26.09.2018 passed by the Hon'ble Supreme Court of India in W.P.(civil) 494/2012

(ii) Letter dated F. NO. K-11022/741/2018-UIDAI (Auth-II) dated 01 October, 2018

(iii) DoT circular to TSPs on use of Aadhaar eKYC service of UIDAI, dated 16.08.2016

(iv) DoT circular to TSPs on re-verification of existing SIMs, dated 23.03.2017

(v) DoT instructions on Verification of New Mobile Subscribers, dated 09.08.2012

(vi) Bharti Airtel Letter No. SC/ARTL/UIDAI/2018/01 dated 15th October, 2018

Dear Mam,

We thank you for holding the meeting on Wednesday, October 17, 2018 in connection with the Aadhaar based eKYC process and the impact of the Supreme Court Judgment.

We wish to submit as follows:

1. Basis the understanding of the Aadhaar Judgment passed by the Hon'ble Supreme Court of India ("**Judgment**") followed by the letter dated October 1, 2018 from the UIDAI, we understand that Telecommunication Service Providers (TSPs) cannot use Aadhaar based eKYC for issuance of new SIM card. Further, the circular dated 23.03.2017 issued by the Department of Telecommunications ("DoT") has been declared unconstitutional and therefore, we cannot continue to use the Aadhaar based eKYC for the purpose of re-verification of existing SIM cards.
2. At the outset, we submit that **the re-verification of the customers using the Aadhaar services has been completely stopped.** However, prior to the judgment, we have re-verified approximately 105 million subscribers on the basis of the Aadhaar services.

3. As you are aware, we implemented the Aadhaar based KYC process on the basis of the circulars and directions of the Department of Telecom ("DoT"). The DoT circular, *use of Aadhaar eKYC service of UIDAI, dated 16.08.2016*, provided the process using the e-KYC services of the UIDAI for acquisition of new subscribers wanting to avail of telecom services. The said process allowed for the subscribers to be verified based on biometric authentication using the limited demographic data obtained from the UIDAI, which was name, address, date of birth, photograph and gender. The said process was followed and basis the same, we have issued approximately 233 million new SIMs to subscribers.
5. The above said Aadhaar eKYC based process allowed for the following:
 - a. Convenience to the Customer;
 - b. Addressed the security concerns of the MHA;
 - c. Allowed faster activation and thereby resulted in telecom services to reach to the far flung corners of the Country.

Customer Convenience

6. The Aadhaar based process was extremely efficient and convenient for the customers whereby they could authenticate themselves within minutes and avail of a new SIM card. Considering that the authentication was biometric based and allowed for real time turn around, the SIM card was also activated immediately post the authentication.
7. The customers details (to the extent provided) were provided by the UIDAI through registered devices and confirmed immediately resulting in instant activation as opposed to the earlier process in which the time taken averaged between 24 to 48 hours.

Security concerns of the MHA

8. We also submit that the said Aadhaar e-KYC process is more secure, safe and efficient method for the verification of the subscribers resulting in reduction of pre activated SIM cards and helped allay the security concerns of the Ministry of Home Affairs.
9. With the Aadhaar eKYC process, the number of pre activated SIM cards have become next to negligible and tracing the owner of the mobile number extremely easy and fast. That also acts as a deterrent for the fraudsters from obtaining SIM cards with the intent of doing frauds. We have further implemented additional security measures such as restricting the number of connections being issued to subscribers in a day and that has been possible due to the Aadhaar based eKYC process.

Digital vs. Paper based process

11. As you are aware, India is in the middle of a massive digital transformation and is looking to connect the unconnected. The only way to reach the population located in the rural and far flung corners can be through the digital route and any paper based

process will not help achieve the said goal. In our humble submission, moving back to a paper based process should not be an option due to the aforementioned reasons including customer convenience, national security issues and the setback it will cause to the digital program of the Government of India.

12. The Customer details taken (Name, Father's name, Address, Gender, Date of Birth and photograph) in Aadhaar based eKYC process are similar to what we take in normal paper based process. There is no additional/confidential customer information being taken in Aadhaar eKYC process, only that the same happens through a biometric authentication process which is safer and secure, in comparison to the paper process. The paper based process involves manual data entry which leads to manual errors at times, damage/loss to physical documents during transit and misuse. Aadhaar based eKYC process ensures a far better compliance to DoT instructions of Aug 2012.
13. **In light of the above, we therefore request the DoT to allow a digital Aadhaar eKYC based process to acquire customers.**

Kind regards,

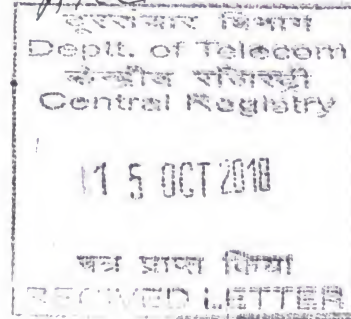
For **Bharti Airtel Limited**



Sameer Chugh
General Counsel and Director – Legal & Regulatory

RJIL/UIDAI/2018-19/496
October 15, 2018

354638/Reg/01/2018
15/10/18



To,
Sh. J. S. Verma,
Deputy Director (Auth.)
Unique Identification Authority of India (UIDAI)
UIDAI Headquarters,
Behind Kali Mandir, Gole Market,
New Delhi-110001

Secy T.

12/10

Subject: Discontinuation of Aadhaar based e-KYC-regarding

Reference:

1. UIDAI F.No. K-11022/741/2018-UIDAI (Auth-II) dated 1st October 2018 on the captioned subject.
2. Aadhaar Judgement dated 26th September 2018 passed by Hon'ble Supreme Court of India in W.P. (Civil) 494/2012

Dear Sir,

1. This is with reference to your aforementioned letter dated 1st October 2018 regarding Hon'ble Supreme Court holding the Department of Telecommunication (DoT) circular dated 23rd March 2017 as unconstitutional and UIDAI's understanding that the telecommunication service providers (TSPs) neither can continue using Aadhaar number for the purpose of issuance of new SIM cards nor for the re-verification of existing subscribers under DoT circular dated 23rd March 2017.
2. We have sought and obtained legal advice as to the implications of the Supreme Court Judgement dated 26th September 2018 on the process for authentication of subscribers for provision of telecommunication services in the country. We are submitting our response to the two issues raised in your letter, namely (A) Closure of Aadhaar based subscriber authentication process; and (B) De-linking the Aadhaar number from mobile numbers for subscribers verified using Aadhaar based process.

(A) Closure of Aadhaar based subscriber authentication process

3. We are advised that the Supreme Court has limited the use of Aadhar identification to matters covered by Section 7, and has declared unconstitutional, the provisions of Section 57 that allowed private entities to use the Aadhar system.

4. The DOT circular dated 23rd March, 2017 which mandated linking of mobile number with Aadhaar has also been declared illegal.
5. The amendment made in 2017 to Rule 9 of the Prevention of Money Laundering (Maintenance of Records) Rules, 2005, which mandated linking of bank accounts with Aadhaar has also been declared illegal.
6. However, in para 367, page 367, the Hon'ble Supreme Court held that "*The Respondents may be right in their explanation that it is only an enabling provision which entitles Aadhaar number holder to take the help of Aadhaar for the purpose of establishing his/her identity. If such a person voluntarily wants to offer Aadhaar card as a proof of his/her identity, there may not be a problem.*"
7. The Hon'ble Supreme Court has held that the use of biometric data by TSPs or banks in order to seek authentication for purposes falling outside the scope of Section 7 could only be permissible if there is authority of law for such process. While compelling a customer to use the Aadhaar for authentication would be violative of the Constitution, appropriate legislation, narrowly tailored to enable an Aadhaar holder to use his number for authentication would not be constitutionally invalid. The opinion obtained by us from senior counsel that sets out this analysis is enclosed herewith for your ready reference.
8. As per this opinion, denying a customer the right to use his biometric in a process based upon a voluntary use of Aadhaar based authentication may in itself be violative of the rights of such a citizen to use his biometric data.
9. We request the UIDAI to examine this matter in all its dimensions.
10. In this context we would request the UIDAI to revisit its view that a TSP can neither continue using Aadhaar number for purpose of issuance of new SIM cards nor for re-verification of existing SIM cards. In this context, we would like to point out that: -
 - a. DOT had recognized in its circular of 16th August 2016, that Aadhaar e-KYC service was an alternative process to the existing Pol/PoA document based processes. It was on this basis that TSPs undertook on-boarding of customers and the customers opted for this process voluntarily. Aadhaar based e-KYC service was offered as an option to customers and was not made mandatory through the circular of 16th August 2016. This circular of DOT was not challenged by the petitioners; and
 - b. The effect of the judgment is only to strike down the DOT circular of 23rd March 2017, which mandated linking of the mobile number with Aadhaar.
11. We submit that not allowing for even a voluntary and alternative process of Aadhaar e-KYC authentication at the instance of holders of Aadhaar card, despite the Hon'ble Supreme Court recognizing and validating the same in its judgment, will take the



telecom industry back to the era of paper based Customer Application Form (CAF) processes with associated pitfalls of forgeries, faked documents, fake identity et al, gravely jeopardizing the interests of national security. The risk of theft and misuse of Pol/ PoA documents in the case of paper based CAF process is very high. Furthermore, it will also have the impact of denying connectivity to unconnected rural population in direct violation of Hon'ble Supreme Court's observation that Aadhaar is providing an identity to the most marginalized of the citizens, thus withdrawing this connectivity enabling instruction will clearly tantamount to denying this section of the society an opportunity to participate in the digital revolution being unleashed under 'Digital India' and various other schemes.

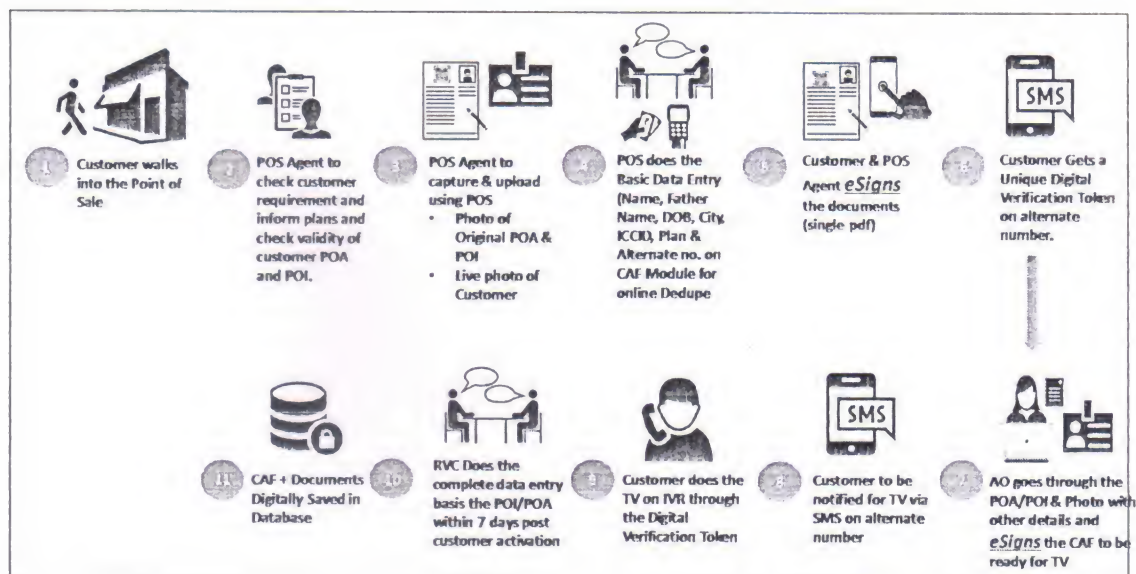
12. As you are aware, RJIL is the largest user of Aadhaar authentication services in the country and in its 2 year journey, RJIL has successfully authenticated over 240 million subscribers of which 13 million were authenticated in the month of August 2018 itself. RJIL currently has 237 million active subscribers, verified using e-KYC authentication process. Further, RJIL is leveraging the Aadhaar based e-KYC authentication to bring the telecom revolution to the most marginalized citizens in remote and rural areas of the country, proliferating Government schemes like Chhattisgarh Infotech Promotion Society (CHiPS)'s "Sanchar Kranti Yojana" and Rajasthan Government's Bhamashah and eSakhi Yojanas. The UIDAI may note that RJIL is bringing lakhs of rural citizens into the digital fold on daily basis and closure of Aadhaar based authentication process will surely adversely impact these rural and remote areas the most.
13. The purpose for which TSPs are using this e-KYC authentication is to comply with the terms and conditions of the license granted to them by the Government of India under Section 4 of the Indian Telegraph Act, 1885 for providing telegraph services. The guidelines for this e-KYC authentication process were issued through a circular.
14. We understand that steps are already underway in DOT to issue necessary rules under Section 7 of the Indian Telegraph Act, 1885 which will govern implementation of various permissible processes including e-KYC authentication for onboarding of customers for providing the telegraph services. The proviso to Sec. 28 (5) of the Aadhaar Act, 2016 expressly envisages an Aadhaar number holder to share the identity information based on a request made to the Authority in such manner as may be specified in by regulations. Sec. 54 (t) of the Aadhaar Act, 2016 provides for the Authority to promulgate regulations to determine the manner of sharing access to identity information of the Aadhaar number holder under the said proviso to Sec. 28 (5). We urge the Authority to work with DOT and implement appropriate amendments to the Aadhaar (Authentication) Regulations, 2016, that engrafts and gives effect to the DOT's rules in this regard. These rules will have the force of law, which will formally address the e-KYC authentication requirements of new subscribers, based on their volunteering for use of the option, in conformity with the Hon'ble Supreme Court's judgment.
15. We also request UIDAI not to discontinue the Aadhaar based e-KYC subscriber verification for telecom subscriber under the 2016 Circular, entirely based on the



volition of the customer particularly in the interest of national security and proliferation of telecom and digital services in remote and rural areas.

16. As more than 90% of RJIL's new subscribers were being on-boarded using the Aadhaar based e-KYC authentication, the paper CAF based subscriber verification process is not scaled up to meet the requirements of all new customers desirous of availing RJIL services. We bring to your kind attention that the paper CAF based subscriber verification process requires augmentation of resources, manpower acquisition at multiple levels starting from the point of Sale, Retailer/Distributor, CAF management and warehousing etc. This will also require enhancements at Call Centres and Interactive Voice Recording (IVR) mechanism for subscriber verification etc. Clearly, the additional manpower will also require extensive training to comply with the DoT instructions on the subject. Thus, as per conservative estimates, we understand that the entire scaling up, in order to meet the current level of demands for mobile connections will take minimum of nine months. Thus any exit plan from Aadhaar based e-KYC authentication should be planned keeping in view this timeline.
17. Till the time final decision is taken by the Authority taking into consideration all the factors stated above, we propose, as an interim alternative process, subscriber verification leveraging the Aadhaar based e-Sign process in compliance with the Electronic Signature or Electronic Authentication Technique and Procedure Rules, 2015 dated 27th January 2015 and subsequent amendments.
18. We submit that this process will also be compliant with the Hon'ble Supreme Court judgment and no demographic data will be obtained from the UIDAI. The demographic details will be populated in the CAF basis the valid Proof of Identity (POI) and Proof of address (POA) documents provided by the subscriber. These documents will be captured in the CAF and both subscriber and the agent at point of sale will verify the CAF with e-Sign. This will be a paperless process, where the services will be activated only post the verification by the activation officer (AO) of the Licensee and the same will be captured on the CAF through e-Sign. To ensure abundant compliance, we can use Government agencies like National Securities Depository Limited (NSDL) as the e-Sign service providers. A schematic explaining the process is presented below:





19. We are taking up this alternative process with the DoT separately, however as the e-Sign is based on Aadhaar electronic authentication, we request your good office to also review this alternative process.

(B) De-linking the Aadhaar number from mobile numbers for subscribers verified using Aadhaar based process.

20. The judgment does not suggest that Aadhaar data linked with the mobile numbers voluntarily by subscribers during the Aadhaar based e-KYC process is required to be delinked.
21. We submit that we also sought opinion of counsel on the validity of the Aadhaar based authentication carried out prior to the Hon'ble Supreme Court judgment dated 26th September 2018. The relevant extracts of the opinion are as below:

53) As far as the past is concerned, nothing in this judgment would render any act illegal. The Authority made available the facility of authentication to all telecom service providers. The interlocutory order made by the Supreme Court in 2017 (which led to the issuance of the Circular which made the linking of the Aadhaar number with the SIM mandatory) continued to be in force till the judgement was delivered. Besides, the Aadhaar number was only used for authentication purposes and the authentication process is a one-time act which was validly done at the time when it was done in respect of customers enrolled during that period.

54) In my opinion this authentication suffers from no illegality and does not require any fresh authentication now to be performed. The architecture of the Aadhaar system has been upheld and all the doubts as to its efficacy have been rejected. There is no suggestion that the authentication was faulty and therefore did not provide a valid basis for verifying the identity of a customer. There were certain areas where its implementation was found to be excessive and thus inconsistent



with the citizens' rights to privacy. In my opinion there is absolutely no basis to suggest that the exercise of authentication has to be carried on afresh.

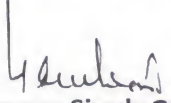
22. Clearly, the legal opinion is unequivocal in stating that the subscriber authentication for all new and re-verified subscribers using Aadhaar based e-KYC prior to the Hon'ble Supreme Court Judgment, particularly in the light of interlocutory order made by the Supreme Court in 2017 continuing to be in force till the judgment was delivered, remains valid. Further, post the implementation of the Virtual ID and UID Token and the new API 2.5, in compliance with the UIDAI Circular No.12 of 2018 on "*Implementation of Virtual ID and UID Token and Limited e-KYC*", RJIL is onboarding new subscribers only as per these instructions. **We submit that in no case the 12-digit Aadhaar number is received and stored by RJIL and only the 72-digit UID token is maintained, thus obviating the need to de-link the Aadhaar from mobile number.**
23. Further, for delinking the Aadhaar number for all subscribers authenticated prior to implementation of new API, in case of customer requests for such delinking, RJIL will use UIDAI bulk utility for such conversion. We will request UIDAI to expedite the delivery of the facility. **By this RJIL will ensure that in no case it will be storing Aadhaar number of any customer.** We shall await further instructions and availability of new API from UIDAI in this regard.
24. Furthermore, in case any of the subscribers does not only want to delink the Aadhaar from mobile number but also wishes to remove all demographic details provided by UIDAI, then in such cases, the subscriber will have to fill a new CAF. We submit that, in compliance with Unified License terms and conditions, all TSPs are required to maintain a traceable identity of the subscribers. Evidently, all subscribers requesting for delinking of Aadhaar from mobile number and for expunging the demographic data will be required to fill in the CAF and provide valid POI and POA documents and verify themselves in accordance with DoT prescribed process, in case they wish to continue availing the mobile services post delinking from Aadhaar. Post applicable verification and approvals, the mobile number related details will be seamlessly migrated to new details. These requirements will be applicable equally for all subscribers acquired using the Aadhaar based e-KYC process and the subscribers who were re-verified under this process.
25. We submit that the exact manner and process of delinking the Aadhaar from mobile number can only be prescribed by the DoT under the license terms and conditions. Therefore, we request you to provide the TSPs sufficient time to plan this delinking activity post issuance of suitable instructions by DoT.
26. In view of the above foreseen challenges and implementation issues, we request the UIDAI to take a considered view including by way of necessary legal steps in consultation with all stakeholders so as to ensure that the customer benefits and national security interests remain unaffected within the permissible legal framework.



27. We submit that the indicative time frames for a paper based CAF verification process and related scaling-up which will consequently be required, have been delineated hereinabove. Further, interim alternative processes for authentication, which will also be in conformity with the judgment of the Hon'ble Supreme Court have also been proposed. A plan for delinking of Aadhaar from mobile numbers has also been placed for your kind consideration, as shown in the foregoing paragraphs. Given this, we request the Authority to consider the foregoing facts and circumstances and enable TSPs suitable time to migrate to the new regime.

Thanking you,

For **Reliance Jio Infocomm Limited**,


Kapoor Singh Guliani

Authorised Signatory

Email: Kapoor.guliani@ril.com

Mobile: 9717539955



Enclosure: As above

Copy to:

- i. Sh. Ravi Shankar Prasad, Hon'ble Minister of Law & Justice and Hon'ble Minister of Electronics and Information Technology, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi - 110003
- ✓ ii. Sh. Manoj Sinha, Hon'ble Minister of State (Independent Charge) of the Ministry of Communications, DoT, Sanchar Bhawan, 20, Ashoka road, New Delhi-110001.
- iii. Ms. Aruna Sundararajan, Chairman TC & Secy.(T), DoT, Sanchar Bhawan, 20, Ashoka road, New Delhi-110001.
- iv. Shri Ajay Prakash Sawhney, Secretary (E&IT), Ministry of Electronics and Information Technology, Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi - 110003
- v. Dr. A. B. Pandey, CEO, UIDAI, Government of India, Bangla Sahib Road, Behind Kali Mandir, Gole Market, New Delhi - 110001

OPINION

QUERIST: Reliance Jio Infocomm Ltd.

ex parte

- 1) The Querist has sought my opinion on the consequences of the recent Supreme Court judgment dealing with the constitutional validity of the Aadhaar card scheme and the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act 2016. [Aadhaar Act]
- 2) The Querist is a telecom service provider and is licenced under Section 4 of The Indian Telegraph Act, 1885 [Telegraph Act].
- 3) One of the conditions of the licence, found under Chapter VI relating to Security Conditions, in Clause 39.17 (i) reads thus: “.... *The Licensee shall ensure adequate verification of each and every customer before enrolling him as a subscriber; instructions issued by the Licensor in this regard from time to time shall be scrupulously followed. The Licensee shall make it clear to the subscriber that the subscriber will be responsible for proper and bona fide use of the service. ...*”. The Clause 39.17(ii) also added “... *Format prescribed by the Licensor delineating the details of information required before enrolling a customer as a subscriber shall be followed by the Licensee. A photo identification of subscribers shall be pre-requisite before providing the service. The Licensor may prescribe service-wise detailed instructions for enrolment of subscriber and activation of service from time to time...*”.
- 4) A circular was issued by the Department of Telecommunications [which administers The Indian Telegraph Act, 1885] on 9th August 2012, setting out the protocol in accordance with which this condition of the licence was to be implemented. The relevant elements of this protocol were as set out below.



- 5) After the introduction of the Aadhaar Card, the DoT amended the instructions, by issuing another set of instructions on 16th August 2016. The material extracts from these are set out below.
- 6) A challenge was brought to the Aadhaar scheme, and over a period of time, directions were issued by the Supreme Court. Instructions were also issued by the Government of India from time to time.
- 7) On 23rd March 2017, the DoT issued a circular making it mandatory to link the mobile telephone connections with the Aadhaar Card. Shorn of details, this caused the telecom service providers to re-verify the credentials of all customers by using their unique identity.
- 8) It was clearly understood that the service providers were not allowed to store the unique identity numbers. The verification of details was a one-time exercise, in which the existing details of name and address were verified using the Aadhaar Number.
- 9) On 25th March 2016, the Aadhaar Act came into force.
- 10) One of the provisions of the Aadhaar Act that allowed access to the biometrics for authentication, to private entities in Section 57 of the Aadhaar Act, has been declared to be unconstitutional by the Supreme Court.
- 11) The two issues that have arisen, and on which my opinion is sought, are: -
 - a) Does the judgment of the Supreme Court render all the past use of the Aadhaar number for identification illegal, and if so, the consequences of such illegality, and



- b) What is the way forward, by which the Government of India can create a lawful regime to allow use of the Aadhaar Number for authentication, consistent with the judgment of the Supreme Court?

12) An analysis of the statute is necessary in order to understand the implications of the judgment of the Supreme Court.

- i. The definition of the expression “authentication” in Section 2(c) reads as follows:

2(c) “Authentication” means the process by which the Aadhaar number along with demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it.

- ii. The expression “biometric information” is defined in Section 2 (g) as follows:

2(g) “Biometric information” means photograph, finger print, Iris scan, or such other biological attributes of an individual as may be specified by regulations.

- iii. A subset of biometric information - “core biometric information” - is defined in Section 2(j) thus: -

2(j) “Core biometric information” means finger print, Iris scan, or such other biological attribute of an individual as may be specified by regulations.



iv. Section 3, the primary provision relating to enrolment reads thus:

3(1) "Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number."

Sub-section 3(2) stipulates that the Enrolling Agency "....at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely: -

- a) the manner in which the information shall be used;
- b) the nature of recipients with whom the information is intended to be shared during authentication; and
- c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made."

v. Section 7 creates a power in the Central and State Governments to mandate the possession of an Aadhaar number for receiving subsidies, benefits or services from the Government.



- vi. Section 8 enabled the Authority to "...perform authentication of the Aadhaar number of an Aadhaar number holder..." to any requesting entity. The expression "requesting entity" is defined in Section 2 (u) to include any agency or person which submitted the Aadhaar number, a biometric information or a demographic information of an individual to the Data Repository for authentication.

Sub-section (3) of Section 8 casts a duty on the Requesting Entity to inform the individual submitting his identity, information or authentication, of the following: -

- a) the nature of information that may be shared upon authentication;
- b) the uses to which the information received during authentication may be put by the requesting entity; and
- c) alternatives to submission of identity information to the requesting entity.

- vii. Chapter VI of the Act made provisions for "*Protection of Information*". Section 28(2) prohibits sharing of any information or authentication, - it reads thus:

28(2) "*Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.*"



An exception is made in the proviso placed below to Sub-section (5) in the following terms: -

28(5)“... Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations...”

viii. The expression “identity information” is defined in Section 2(n) in the following terms: -

2(n)“Identity information” in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information.”

ix. Section 54 of the Act confers upon the authority constituted under the Act, the power to make Regulations. The power is conferred in general terms. Section 54(1) reads thus:

54(1)“The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.”

Apart from the general power, a specific power is recognised in Clause (f) of Sub-section (2) of Section 54 in the following terms:



54(2) "In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -

...(f) The procedure for authentication of the Aadhaar number under Section 8."

- x. Section 57, which the Supreme Court considered constitutionally infirm, reads thus:

57 "Nothing contained in this Act shall prevent the use of Aadhaar number for establishing the identity of an individual for any purpose, whether by the State or any body corporate or person, pursuant to any law, for the time being in force, or any contract to this effect:

Provided that the use of Aadhaar number under this section shall be subject to the procedure and obligations under Section 8 and Chapter VI."

- 13) The provisions of the Aadhaar Act were challenged by the Supreme Court. The Supreme Court has upheld most of the provisions of the Act, but struck down Section 57. It also declared the Circular of 23 March 2017 as illegal.



- 14) The reasons given by the Supreme Court for striking down the circular are in Paragraph 441, Page 519 of the Majority judgment. The first reason given was that the Circular was issued on a misreading of the direction of the Supreme Court in the Lokniti petition- the Court had not *directed* the Government to issue any such circular. Secondly the Supreme Court held that “...*the Circular is not issued in exercise of powers under Section 4 of the Indian Telegraph Act, 1885 (though that itself would be debatable as to whether Section 4 gives such a power at all)...*”.
- 15) Recognising the power of the Government to issue directions, the Supreme Court held that “...No doubt, the Central Government, as a licensor, can impose conditions while granting licenses under Section 4 of the Indian Telegraph Act, 1885. However, such directions/conditions have to be legally valid. When it affects the rights of the third parties (like the petitioners herein who are not party to the licenses granted by the Government to the Telecom Service Providers) they have a right to challenge such directions. Here, the case made out by the petitioners is that it infringes their right to privacy...”.
- 16) In paragraph 442, Page 521 the Supreme Court paraphrased its reasons for finding the Circular as constitutionally impermissible. It held “...*We are of the opinion that not only such a circular lacks backing of a law, it fails to meet the requirement of proportionality as well. It does not meet ‘necessity stage’ and ‘balancing stage’ tests to check the primary menace which is in the mind of the respondent authorities. There can be other appropriate laws and less intrusive alternatives. For the misuse of such SIM cards by a handful of persons, the entire population cannot be subjected to intrusion into their private lives. It also impinges upon the voluntary nature of the Aadhaar scheme. We find it to be disproportionate and unreasonable state compulsion.*”



- 17) The Supreme Court recognized that the Aadhaar scheme is voluntary in nature. The linking of the subsidy schemes with the Aadhaar number as per Section 7 of the Aadhaar Act was upheld on the ground of State necessity.
- 18) In paragraph 266, Page 341 the Supreme Court held that *"....by no stretch of imagination, therefore, can it be held that there is no defined State aim in legislating Aadhaar Act. ...In a welfare State, where measures are taken to ameliorate the sufferings of the downtrodden, the aim of the Act is to ensure that these benefits actually reach the populace for whom they are meant. This is naturally a legitimate State aim..."*.
- 19) Thus the fulfillment of the constitutional and statutory obligations of a welfare State, the intrusion into privacy by the Aadhaar being made compulsory for obtaining State aid was upheld as a legitimate State aim.
- 20) In Paragraph 277, Page 348 the Court recognized that the enrollment for Aadhaar was voluntary and in Paragraph 278, Page 349 the Court noted that *"...enrolling for Aadhaar is not the serious concern of the petitioners. It is only the process of authentication and other related issues which bothers the petitioners...."*.
- 21) Dealing with the defense of the Government that a lot of the information gathered by the UIDAI is already in the public domain as it is parted with by the individuals to other bodies or agencies, including to private agencies, the Supreme Court in Paragraph 284, Page 353 held that *"...However, the matter is to be looked into from the angle that the information is collected and stored by the State or instrumentality for the State. Therefore, it becomes important to find out as to whether it meets the test of proportionality, and satisfies the condition that the measure must not have disproportionate impact on the right-holder (balancing stage) ..."*.



- 22) In Paragraph 294, Page 363 the Supreme Court notes that demographic information is required by many other enactments, and [In Paragraph 295, Page 363] that *"...core biometric information which comprises finger prints, iris scan, for the purpose of enrolling in Aadhaar scheme....is minimal information required for enrolment...."*. The Supreme Court rejected the suggestion that this data can be used for profiling. It held that [in Paragraph 309, Page 376] the *"...inroads into the privacy rights where these individuals are made to part with their biometric information, is minimal. It is coupled with the fact that there is no data collection on the movements of such persons when they avail benefits under Section 7..."*.
- 23) Clarifying the area of operation of mandatory use of Aadhaar, the Supreme Court held that [in Paragraph 321, Page 390] *"... 'Benefits' should be such which are in the nature of welfare schemes for which resources are to be drawn from the Consolidated Fund of India..."*.
- 24) The significance of the voluntary nature of the Aadhaar scheme was also reflected in its application to children. The Supreme Court held that [In Paragraph 327, Page 395] as *"...children are incapable of giving consent, foisting the compulsion of having Aadhaar card upon them would be totally disproportionate and would fail to meet the proportionality test..."*. Thus the enrolment of children would only be if their parents/guardians gave consent and further they would have the option to exit the Aadhaar scheme on attaining majority. [In Paragraph 332, Page 401].
- 25) As to the sharing of information, the Supreme Court considered the challenge to the Regulations. The observations in this context are of importance in the present context. The Supreme Court in Paragraph 342, Page 416 held that *"...Sub-regulation (2) of Regulation 3 permits sharing of demographic information and photograph of an individual collected by the Authority under the Act only with the consent of the Aadhaar number holder, that too for authentication process in accordance with Authentication Regulations..."*.



26) The challenge to Section 57 was brought on various grounds, one of them being that information was permitted to be shared “...not only pursuant to any law for time being in force but also pursuant to any contract to this effect which would mean that individuals may be forced to give their consent in the form of contract for a purpose that may be justified or not thereby permitting the private parties to collect biometric information about the said individual...”.

¹The provision was defended on the ground that it was only an enabling provision “...which gives further facilities to Aadhaar card holder, as per her choice and is, thus enacted for the benefit of such individual...”. [In Paragraph 359, Page 430].

27) In Paragraph 367, Page 434 the Supreme Court then held that “...the respondents may be right ...that it is only an enabling provision which entitles Aadhaar number holder to take the help of Aadhaar for the purpose of establishing his/her identity. If such a person voluntary wants to offer Aadhaar card as proof of his/her identity, there may not be a problem...”.

28) Examining Section 57 further [albeit in the context of the question whether the legislation was correctly treated as a Money Bill] the Supreme Court in Paragraph 412, Page 486 said “...Section 57...only enables the holder of Aadhaar number to use the said number for other purposes as well. That would not take away the sheen of Clause 7...”.

29) The limits on the use of the Aadhaar card, in the context of banking, were explained by the Supreme Court in Page 566 thus “...this move of mandatory linking of Aadhaar with bank account does not satisfy the test of proportionality...”.

¹ Paragraph 357 (c), Page 429



- 30) In the same vein the Supreme Court held that the linking of the SIM card with the Aadhaar number violated the right to privacy. [Paragraph 438, Page 517].
- 31) In the context of compulsory linking the Supreme Court held in Paragraph 442, Page 521 that “... *there can be other appropriate laws and less intrusive alternatives...*”.
- 32) In relation to Section 57 the Supreme Court, in its conclusions, (Paragraph 447, Page 545) held that “.... *that portion of Section 57 of the Aadhaar Act which enables body corporate and individual to seek authentication is held to be unconstitutional...*” It added [in Para (h) in answer to Question 4, Page 560] it held “...*Insofar as Section 57 in the present form is concerned, it is susceptible to misuse inasmuch as: (a) It can be used for establishing the identity of an individual ‘for any purpose’. We read down this provision to mean that such a purpose has to be backed by law. Further, whenever any such “law” is made, it would be subject to judicial scrutiny. (b) Such purpose is not limited pursuant to any law alone but can be done pursuant to ‘any contract to this effect’ as well. This is clearly impermissible as a contractual provision is not backed by a law and, therefore, first requirement of proportionality test is not met. (c) Apart from authorising the State, even ‘any body corporate or person’ is authorised to avail authentication services which can be on the basis of purported agreement between an individual and such body corporate or person. Even if we presume that legislature did not intend so, the impact of the aforesaid features would be to enable commercial exploitation of an individual biometric and demographic information by the private entities. Thus, this part of the provision which enables body corporate and individuals also to seek authentication, that too on the basis of a contract between the individual and such body corporate or person, would impinge upon the right to privacy of such individuals. This part of the section, thus, is declared unconstitutional....*”



- 33) A careful analysis of the judgment leaves no manner of doubt that the cornerstone of the Aadhaar Act was understood to be its voluntary character. The enrolment is voluntary. The failure to enrol can be a valid basis to deny welfare benefits. The Government cannot however use the absence of a Aadhaar enrolment to deny other facilities [for eg education related facilities]. Obviously the Government cannot equally compel using the Aadhaar to authenticate demographic data.
- 34) Telecom services rendered by private companies are governed by private contract, but recognising the roles of utilities, the terms of such contracts, in its essential elements is governed by Regulations and the activities of such utilities is overseen by a statutory Regulator. The obligation to provide telecom services to a customer agreeing to pay the charges that may be imposed in accordance with law is indisputable.
- 35) The next question relates to the verification of the identity of such users of services. The degree of demographic detail that a Government may seek depends also on State necessity. By the same token, the degree of demographic detail that a Government may compel a telecom service provider to seek before enrolling a customer also depends on State necessity.
- 36) A reading of the landmark judgment relating to the right to privacy (*Justice K S Puttaswamy (RETD.), and Anr. Vs. Union of India W.P. (Civil) No. 494 of 2012*), and the follow up judgment in the Aadhaar case, leaves no manner of doubt that the Supreme Court has recognised a citizens' right in its biometric and demographic data as a facet of the right to privacy. Such a right cannot be invaded by any agency -public or private- absent compelling State necessity.



- 37) However, a citizen cannot, absent express legislative restriction, be denied the right to monetise such a right. Undoubtedly where a utility imposes unreasonable conditions that would compel a citizen to compromise its right to keep and preserve this data in order to avail of facilities would be a violation of Article 21 of the Constitution.
- 38) On the other end of the spectrum is the right of a citizen, who had elected to enrol in any facility - public or private- for storing data in order to facilitate and expedite authentication, where an authentication of identity is necessary either to protect State interest [e.g. telecom services which require KYC norms to be complied with] or necessary to protect the customer, as in the case of banking facilities [including credit card facilities].
- 39) In such cases, if a person who has voluntarily enrolled for a data authentication facility, wants to use such facility to enable a quick and failsafe way of identification, denial of such a right would equally violate the rights of such a citizen to use his biometric data.
- 40) A fortiori, when on the expense of the taxpayer, the State has set up a massive apparatus for collecting data for authentication of a customer's identity, denying an enrollee of Aadhaar to call in the aid of the data stored by the Authority would violate his right.
- 41) Undoubtedly making it a condition of providing telecom services is an imposition that breaches the bounds of proportionality. But enabling its use, in preference to less secure and more intrusive methods that are presently in place cannot be condemned as being violative of the rights of the customer.



- 42) In this context, it is necessary to note that the Supreme Court noted that enrolling for Aadhar was a voluntary process, and the real concerns lay in relation to authentication and other related issues. The Court held that the information is collected and stored by an instrumentality of the State for the State. The information collected - the core biometric information - was minimal information required for enrolment.
- 43) The Supreme Court held that the right to privacy extends to such biometric and demographic data. Compulsory disclosure or even use of the data [whether by mandate of law that requires disclosure, or by denying benefits in the event of non-disclosure] can only be justified where it satisfied the tests of proportionality and compelling State interest. The use of such data for authentication at the request of the Aadhaar number holder stands on a different footing- this has been expressly noted in Paragraph 367 extracted above.
- 44) It would be thus now be for the Government to frame Regulations by which an Aadhaar enrollee can request authentication by use of his data. Conferring upon the customer of a telecom service the right to make available paper based proof of identity, which is far more prone to abuse than the Aadhaar based data, cannot be considered as a violation of Article 21.
- 45) The Circular of 9 August 2012, which mandates verification of a customer for activation of a new mobile connection continues to be in force. Telecom service providers have, as a condition of their license, to comply strictly in letter and spirit with the Circular. This Circular requires the demographics of a customer to be recorded at the point-of-sale. Documents for proof of identity and proof of address of the subscriber have to be kept on file by the mobile service provider. This Circular has been justified as being necessary to prevent the use of mobile telecom services by undesirable elements.



- 46) The 2016 Circular (16 August 2016) allowed "...the 'Aadhaar' e-KYC service across all the Licensed Service Areas including J&K, North East and Assam for issuance of mobile connections as an alternative process to the existing Pol/PoA document based processes...."
- 47) The 2016 Circular (16 August 2016) also provided that "In the e-KYC service, customer will online authorize UIDAI through Aadhaar authentication using Aadhaar number and biometrics to provide his/her demographic data (name of the customer, address, date of birth, and gender) along with his/her photograph (digitally signed and encrypted format) to Licensees. As per UIDAI, digitally signed electronic KYC data provided by UIDAI is machine readable, making it possible for the Licensees to directly store it as the customer record in their database for purposes of issuing a mobile connection....".
- 48) These Circulars are not backed by law. However, there is nothing which the judgment of the Supreme Court would condemn their content as being objectionable if appropriate Regulations are made in which the alternative process, based on the customer's convenience and as provided for by the 16 August 2016 Circular, is given a statutory backing.
- 49) The power to frame Regulations under The Indian Telegraph Act, 1885 is vested with the Government of India under Sec. 7 of the said Act. It would put the matter beyond the pale of controversy if the Circular of 9 August 2012 and 16 August 2016 are engrafted into appropriate Regulations under The Indian Telegraph Act, 1885.
- 50) Authentication under the Aadhaar Act is a matter which has to be governed by Regulations made under that Act. Once the telecom Regulations are suitably drafted on the lines indicated above, the Authority can then frame Regulations under Sec. 54 of the Aadhaar Act to give effect to these Regulations.



- 51) The combined effect of these two sets of Regulations would be to create a regime under which, at the option of a customer, the benefit of the customer's data available with the Authority can be used expeditiously and conveniently to verify the identity of the customer by a telecom service provider.
- 52) Needless to add these Regulations would make it illegal for the telecom service provider to retain either the Aadhaar number of the customer or any other particulars beyond what is required to be maintained under The Indian Telegraph Act, 1885, the Regulations, and the Circulars which create conditions of licence of the telecom service providers.
- 53) As far as the past is concerned, nothing in this judgment would render any act illegal. The Authority made available the facility of authentication to all telecom service providers. The interlocutory order made by the Supreme Court in 2017 (which led to the issuance of the Circular which made the linking of the Aadhaar number with the SIM mandatory) continued to be in force till the judgement was delivered. Besides, the Aadhaar number was only used for authentication purposes and the authentication process is a one-time act which was validly done at the time when it was done in respect of customers enrolled during that period.
- 54) In my opinion this authentication suffers from no illegality and does not require any fresh authentication now to be performed. The architecture of the Aadhaar system has been upheld and all the doubts as to its efficacy have been rejected. There is no suggestion that the authentication was faulty and therefore did not provide a valid basis for verifying the identity of a customer. There were certain areas where its implementation was found to be excessive and thus inconsistent with the citizens' rights to privacy. In my opinion there is absolutely no basis to suggest that the exercise of authentication has to be carried on afresh.

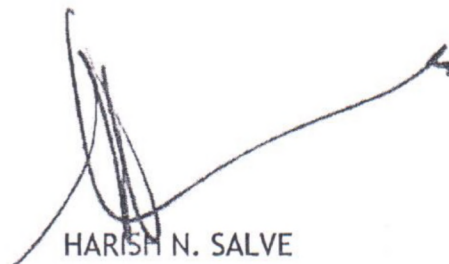


Harish N. Salve
Senior Advocate

55) My opinion is accordingly.

New Delhi

Dated: 01.10.2018



HARISH N. SALVE

